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JURISDICTIONS:

Robert OR, *Hayward*
THE LAWFUL AUTHORITY

His Boob OF 1707.
Courts Leet, Courts Baron, Court of Mar-
shallseyes, Court of Pypowder, and
Antient Demaine :

TOGETHER WITH THE MOST NECESSARY

Learning of Tenures, and all their Incidents of Essoyns,
Imparlance, View; of all manner of Pleadings, of Con-
tracts, of the nature of all sorts of Actions, of Mainte-
nance; of divers other things very profitable for all Stu-
dents of Innes of Court and Chancery: And a most per-
fect directory for all S. ewards of any the said Courts.

*Written by the Methodically learned John Kitchen of
Grays-Inne Esq; and double Reader.*

With an exact Table, pointing out all matter of con-
sequence throughout the whole Work.

*whereunto is added, the Forms of several Originall and Judicial
writs now in use, relating to writs of Error, writs of false
Judgment, and other proceedings of frequent use in the Courts
at Westminster.*

The Fourth Edition Corrected, and much Enlarged.

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T O

**The Students of the Inns
of C O U R T, and
CHANCERY,
JOHN KITCHIN
Wisheth Happiness.**

TO the end no failer in the administration of Laws, from which the Kingdome receiveth its establishment, may through ignorance be admitted, as much as my abilities prompted me unto, for direction of such as keep Courts, I have here preferred at once, both to profit and censure, both which I shall as justly expect, as that I am confident, my endeavours are neither fruitless, nor free from Errings; having neither been industriously idle, nor blessed with infallibility; yet such as they are, I most seriously wish them to your advantage, who are many of you imployed in the keeping of Court Leets, Court Barons, and other Courts and Jurisdictions.

The Epistle Dedicatory.

And therefore I have here in this Book collected all such Cases out of our Books of Law, under such generall heads and notions, which are upon any occasion to be discussed, so that those who neither have not the said Books at large, or have them, and yet want time to peruse them, may here for sweatleß labour receive satisfaction in exchange; whereupon I have fixt my hopes, that Ignorance, the naturall Mother of Error (which hath so much fostered it self in those employments, into which many Ignorant's have thrust themselves, with ignorance and confidence of equall size) will lose its no-being in Judicial Performances; and that the knowledg of the Law in this kind, may prove impulsive to the love of Justice, which is alwayes the lesse regarded, by how much Ignorance is her Enemy, Ignoti nulla cupido. For desire and nothing are the same, where the Understanding is not felicitated with apprehension; which here I teach as far as it is essential for any man, Quatenus he is a Steward of Courts, in which duty I wish him Juris prudential for his own honour, and the Publick Benefit, desiring nothing in requital, but your kind acceptance.

From Grays-Inn.



THE PREAMBLE.

FIRST, before I write of the Order of Courts
Leets, and Courts Barons; you ought to consi-
der for what cause the King was ordained of
God.

Secondly, For what cause the Law was
ordained.

Thirdly, How ancient these Courts are, and for what
causes and matters they were ordained; and also how ne-
cessary it is, that the Law be duly and truly administred in
these Courts.

And first, *Fortescue*, leaf 30. saith, As a natural
Body cannot be without a Head, so a Realm cannot be
governed without a Head, which is the King: And there
he further saith, That whensoever of many, one is con-
stituted amongst them, One shall be Governour, and the
rest shall be governed. *Britton*, leaf the 1. saith, The
King is ordained of God, that the Peace be kept; the
which cannot be well without Law. And *Fortescue* also
saith, All power is of our Lord God. *Bracton* saith, That
the lives and members of men are in the hands of the
King, either for their defence or punishment when they of-
fend. *Bracton* saith also, That the King is God's Vicar
upon Earth, to separate right from wrong, Justice from
Injustice, that all, who are Subjects to him, should live
honestly, and none should hurt another; but that to every
man what is his own by a rightful contribution should be
given; for he is called King by well governing.

Stamford, leaf the first, saith, The King is the Preser-
ver, Nourisher, and Defender of all his people; and that
by his great travel, study, and labour, his people not only
enjoy their Lives, Lands, and Goods; but all those which
they have in peace and tranquillity, and that by the Law.

The Preamble.

And as the body of a man cannot live without the head, but will fall down unto the ground; so the Commonwealth cannot be governed without a Head, which is the King. Also *Seneca* saith, Where there is not a Governour, there the People will be confounded, *Prov.* chap. 11. Where there is not a Governor the people go to ruin. *Rom.* chap. 13. There is no power but of God; and which are the true Powers, are ordained of God: So that the King is ordained of God to govern well his people, and that he cannot do without Law.

The Person of the King and the Queen his wife.

By the Commentaries, leaf the 45. By the 7 of *Edw.* 2. 34. The King is a Corporation. See 1 H. 7. leaf 10. 21. *Edw.* 4. Title Age, It is no plea that the King is within age, 1 *Edw.* 6. title 373. the King shall have his age as Duke of Lancaster, and not as King, by the Commentaries, leaf 213. See *Stamford* 10. If the King grant a Lordship to one in Fee, the Grantee shall not have his Prerogative; but if he grant that for life to the Queen and Prince, that remaineth in the King. And for that, the Queen and Prince shall have Prerogative; And though that the Queen is a person exempt from the King, and may sue and be sued in her own name; yet that which she hath is the Kings, 1 H. 7. leaf 29. where a Reversion was to the Queen, Ayd shall be of the King by *Townsend*, and by some of both the Benches. Petition shall be to the King himself only, and not to the Queen or Prince.

Stamford
75.

3 H. 7. leaf 14. The Queen is as a common person, and as a Woman alone, to let for life, and to do personal things.

11 H. 7. leaf 7. The King letteth to the Queen for life, and the leaseth at will: In Trespass against the Tenant at will, he shall not have ayd of the King, for he is a stranger to the Patient of the King, 7 H. 7. leaf 17.

18 *Edw.* 3. leaf the first, *Philippa*, the Queen, brought a *Quare Impedit*, and held that the Queen may bring a Writ in her own name, and shall find no Pledges, and for that it shall not be in the Writ *unde &c.* 20 *Ed.* 4. leaf 1. *Fitzherbert* 101.

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21. Of the Book of 21 Affises 13. the said Philip brought Deceit of a Fine levyed by Tenants in ancient Demesne at the Common Law.

19 Edw. 4. leaf 2. J. B. granteth to the Queen, the next Advowson of the Church of D. and she alone, of that, bringeth her *Quare Impedit*.

49 Edw. 3. leaf 4. The King may give to the Queen for her life, and she may have an Action alone, and so cannot another married Wife.

The Law.

ANd for that, that it is necessary and expedient to shew for what causes the Laws were ordained; *Forrescue*, leaf 31. saith, That as by Sinews the compact of the body is knit together, so by Law (which of binding is so called) this mystical body is bound together, and kept in one: And *Plowden*, leaf 9. B. saith, The Law is appointed to the King to govern his people, and that by three Laws, that is to say, General Law, Customes, and Statutes. In *Math.* chap. 22. it is written, That Christ sent forth his Servants that they should call to the Wedding; that is to say, He sent his Prophets and Preachers, and they would not come; and there it is said, That he again sent out other Servants, saying, Go and Invite; and that is intended, our Law, which commands, constrains, and bridles us to come to God, and to fear and obey, God and the King, and to keep us in peace, and to make that every one may hold in peace and tranquillity, his Goods, Lands, and lives, and all that we have. *Heracitus* saith, That without Laws, by no means a City can be in safety, but without Walls it may: and *Forrescue*, leaf 10. saith, That thou mayest fear God, the Laws call thee; and in leaf 11. That humane Laws are no other then Rules, by which Justice is taught. The Prophet *David* saith, Where there is no Order, there everlasting horror doth dwell; and without Law there can be no Order. See Saint Germaine, leaf 7. saying, Law is ordained for the Salvation of the Soul, and for to fulfill the Laws of God, and to draw the people to fly evill, and to do good: And see, in Doctor and Student, leaf 8. the six grounds of the Law.

The Preamble.

1 First, Our Law is groundēd upon common Reason.

2 Secondly, Upon the Law of God.

3 Thirdly, Upon divers general Customes.

4 Fourthly, Upon divers Maxims.

5 Fifthly, Upon divers particular Customes.

6 And sixthly, Upon divers Statutes: And for that the Law is more necessary for Government.

Bracton saith, The Law maketh the King; let the King therefore attribute unto the Law, that which the Law hath given unto him; that is to say, Dominion and Power: he is not truly King, where Will doth rule and not Law. And *Fortescue*, fol. 8. saith, The Law is a Sacred Sanction, commanding holy things, and forbidding the contrary; and likewise, fol. 9. saith, That Laws are made by man, which to this doth receive power of God; and they are likewise constituted by God.

Plowden, fol. 55. B. As Subjects of the King are born to inherit Lands, so to inherit Laws; so that, Laws being the inheritance of the people, the Stewards cannot by Letters, or otherwise, gainsay nor take from the Tenants the Law.

By the *Commentaries*, fol. 229. *Saxon*-Law was, that the eldest son should inherit; and *Brittons*-Law was, Gavelkind, as in *Kent* and *North Wales*.

By the *Commentaries*, fol. 18. Words of Law may be broken for necessity, as in Case of *Renyger*, 14 H 7. 29.

7 H. 7. fol. 7. If a Prisoner be in Famine, and hath not sustenance, if he break Prison, it seemeth not to be Felony; for, the Law of God was ordained to call us, and if we will not come, then our Law to bridle us sharply to come to God; and our Law hath regard to necessity and charity; and for that, 20 H. 7. fol. 2. where a married Wife is thrown, or struck with a Horse, or is in sickness, one may assist her, and give her meat and drink.

20 H. 7. 2. One administers about a butial; that is no administration, for it is a work of charity.

Docto and Student, fol. 4. Beasts have certain rules given to them by nature, necessary for their being; but the Law of Nature and reason moveth a man to good, and is written in the heart of every man, to move him to what is good to be done, & what is ill to be avoided. The Law of God is given by revelation, and light of understanding, and the Law of

The Preamble.

God ordains man to eternal life, and is Law to the happiness of this life; and this Law is, To do as you would be done unto. And this Law willet that Justice be done to every man, and that no wrong be done.

Doctor and Student, fol. 2. There are four manner of Laws, that is to say, The Eternal Law, The Law of Nature and Reason; the Law of God, and the Law of Man.

By *Mylbridge*, chap. 1. it is enacted, That as well the greatest as the smallest, should have, and receive, Justice in the Kings Court; and that none of other revenges or destructions should make by his Will, without consideration of the Kings Court.

Westminster the 1. chap. 1. Common Right should be made to all, as well to Poor as to Rich, without regard of any: See *Stamford*, fol. 56. of Justice.

2 *Edw.* 3. cap. 9. No command, either by the Great Seal, or Privy Seal, to disturb, or delay common right. And for so much, the Justices should not forbear to do right in any point.

18 *Ed.* 3. The Statute of the Oath of the Judges is, If any Letters to the Justices come, contrary to the Law, that you shall do nothing for such Letters, but certify the King of it, and resolve before to execute the Law, notwithstanding those Letters.

And to conclude of these matters, You ought to consider, That GOD created Man onely to serve him, and created all other Creatures in the World, for the service and use of Man, as the Prophet saith, Thou hast subjected all things under his Feet; all Sheep and Oxen, and likewise the Beasts of the Field, Birds of the Ayre, and Fishes of the Sea, which walk through the paths of the Sea; so that all was made for the use of Man; and yet without Law, a man cannot enjoy that: and GOD being mindful of Man, to serve him, as the Prophet saith, What is Man, that thou art mindful of him, or the son of Man, that thou hast regard unto him? And for that, GOD hath ordained Kings to govern, and to keep men in obedience, to serve and obey God, the King and his Laws; for to disobey is detestable. And *Paul* to the *Romans*, chap. 13. saith, Every Soul is subject to the higher Powers, for there is no Power but of God, which Powers verily are ordained by God; so that whosoever resisteth that power,

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doth resist the Ordinance of God : And *Peter*, chap. 2. saith, Be subject to every humane Creature, for the Lord ; and to the King as Superior : And then for that, that the King is ordained of God, to make his people to serve God, and to keep his people in obedience : If you disobey the King, you break that which is commanded contrary to the Scriptures, and so you disobey God : And you see, that if God had not been mindful of us, and had not created and ordained the King to govern us (being of frail nature) and that by Laws to bridle our frail nature, none could enjoy his Lands, Goods, nor his life in safety : And for that, that the Law is so necessary. Now let us see when, and how these Courts Leets, and Court Barons, began.

The beginning of these Courts Leets ordained.

Finch, 12 H. 7. fol. 18. saith, That at the beginning all the Administration of Justice was in the Crown, and where the King was, there was the Law administered : Then afterward, for the multiplicity of the people, was the Court Leet for punishment of Offences, and Annoyances to the Common-wealth within the Princinct of that ; and the Articles and Pains are obtained to that end, and it is called, The view of Frankpledge, for that the King there, may be certified by the view of the Steward, how many people are within every Leet ; and also to have account and view by the Steward, of their good government and manners in every Leet : And also the Leet was ordained to have every person, of the age of twelve years, which had remained there by a year and a day, to be sworn to be faithful and loyal to the King ; and also for that, that the people there might be kept in peace and obedience, these Courts Leets were ordained.

Court-Barons ordained.

And Court-Barons were ordained to determine Injuries, Trespases, Debts, and other Actions, as afterwards it appeareth, where the debt, or the damages are under forty shillings ; and also for that, that the Lords of the Mannors, and Court-Barons, have given their Tenants their Lands and Tenements, before the Statute of Westm. the third, to hold of them, for that also Homagers of Court ought to inquire in this Court, that their Lords shall not lose their Services, Customs, or Duties. And also it was ordained to make their Suits there, and so to shew themselves obedient to their Lords, and that nothing be made within

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within the Mannor, to be any annoyance or hurtful to the Inheritances of the Lords of the Mannors, which should not there be inquired of, and presented for the Lords of the Mannors, as after ward, by the Articles more plainly appears. And so now you see here briefly, that the Realm cannot be governed without a King; and that the King for that cause is appointed of God, and that the King govern by the Law, and cannot govern his people without Law; and also you have heard, how ancient and how necessary these two Courts are for governance of the people.

Roy Ley.

And now for that these Courts are held within Mannors, and that a Court Baron is incident to a Mannor, it is fit to know how Mannors did begin, and within what Mannors Court-Barons are held, and in what nor.

Mannors

Parkins fol. 127. saith, That the beginning of Mannors was, when the King gave a thousand Acres of Land, or a greater or lesser parcell to one and his Heirs, to hold of him and his Heirs; and before the Stat. of *quia emptores terrarum* one seized of Lands did infeoff one or ten Acres, another of twelve Acres, and the third of twenty Acres, every one of them to make service unto him; and so by continuance of time out of mind, &c. he had a Mannor. Also in the 33. year of H. 8. Comprize, &c. 31. A man cannot make a Mannor at this day; for notwithstanding, that a gift in tail be made to diverse, to hold of the Giver by Services, and Suit of Court, though by that there be a tenure, yet it cannot make a Court, for that cannot be but by Prescription; And if a Mannor be, and all the Freeholders but one Escheat; or if the Lord purchase them, it is no Mannor; and there cannot be a Court Baron without Suitors, and not with one Suitor only, 35 H. 8. Tenures, 102. 23 H. 8. Court-Baron, 22 Suit, 17.

Plow. fol. 169. a.

Mannors cannot be without Court-Barons.

Fitzherbert, 3 C. If one hold of another, as of Signiory Ingross, which is not a Mannor, he hath no Court-Baron.

Fitzherbert, 8 B. Where a man giveth all his Land in Tail, there is a Signiory Ingross, and he shall have no Court; but if he were seized of a Mannor, and give parcell of the Demesnes in tail, it is otherwise.

22 H. 6. Title 2. Services is parcell of a Mannor,

B 4

but

The Preamble.

but not the Land of the Mannor, unless it be copyhold; for if a man hath a Mannor in the County of Westmerland, and one holdeth Land of that Mannor, which Land is in the County of DARBY, he shall demand that Mannor in the Counties of WESTMERLAND, and DARBY.

18. Of the Book of Assises, 3. If a man, seised of a Mannor, do alien four Acres in Fee, this is separated, and no part of the Mannor; but if the Husband, seised of a Mannor in right of his Wife, alien four Acres for life, and afterwards grants the Reversion of that in Fee to P, and afterwards P purchase the whole Mannor, to which the Husband and Wife levy a Fine, upon acknowledgement of Right, as that which he had of their Wife. The Fine extendeth to the four Acres which were severed, for they were parcell in Reversion, as of the Mannor.

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And in the 36 H. 8. 4. Two Coparceners make a partition of a Mannor, so that each of these have a parcell in Demesnes, and a parcell in Services: Now each of these hath a Mannor, and each of these have two Suitors; but otherwise it is, if one have but one Suitor, he cannot hold a Court-Baron: but 12 H. 4. 25. Partition is made of a Mannor; that one Coparcener shall have the Demesnes, and the other the Services: the Suit to the Court is suspended, and during that, there shall be no Court-Baron held: and 8 H. 3. 4. and 34 H. 6. 53. It is held, That a Court-Baron is belonging to a Mannor of common right, so that within every Mannor shall be a Court-Baron, unless there be no Suits there, or that by partition the Suit is suspended, as it is before said: But more, that diverse are called Mannors, within which are not any that hold of these Mannors, but onely Copyholders at the will of the Lord, according to the Custome of the Mannor, and these are no Freeholders which hold by Charter; and yet these Lordships are called Mannors, and in these are Court-Barons. 19 H. 8. 17. Court-Baron is Incident to a Mannor.

And now though the honourable Judges of both Benches, and the honourable Lord Chief Baron, and the other Judges there of Record, at this day are altogether given to administer Justice to all, without respect of any persons,

The Glasse for Stewards.

persons, according to the Statute of the 1 Edw. the 3. Chap. 14, which is, That Right be made as well to poor as rich, and that none send Letters in disturbance of the Common Law; that so, praise be to God, their whole inclination to the administration of Justice, may be a sufficient example to all Stewards, to administer Justice, and not to have regard to Letters: yet in some Court-Barons I have seen such subverting of Justice by Stewards, some by ignorance and wilfulness, and some Stewards to please their Lord, and for fear of losing their Fee, being but Stewards at the will of their Lords, and some for Letters, and other causes, that Justice many times hath not place there, to the perilous example and overthrow of Estate; and for that, that henceforth hereafter Justice in these Courts may be the better administred, before that I shall treat of the Courts aforesaid: I think it is convenient to write to the Stewards, these sentences insuing, to be a Glasse to Stewards, to read their better remembrance to administer justice, and for that it thus followeth.

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2.

¶ The Glasse for the Steward.

Who worketh justice, he shall be advanced, Ecc. 10.

Blessed are they which hunger and thirst for Justice, for they shall be satisfied, Mat. 16.

Justice advanceth a Nation, and it maketh a miserable people to be pacified, Prov. 19.

He that justifieth a wicked man, and condemneth the just man, he is most abominable with God. Prov. 17. 15. Unless your Justice abound more than that of the Scribes and Pharisees, you cannot enter into the Kingdome of Heaven, Matth. 18. The Souls of the just are in the hands of God, Wisd. 3. In the straight path of Justice, but the contrary way leadeth to Death, Prov. 12.

Love God, and thy Neighbour as thy Self; then if you do not Justice, how do you love him, who is Justice and Truth? and how do you love your Neighbour as your Self? Matth. 22. Justice surely is immortal and everlasting; injustice is the wages of death; love Justice, ye that Judge the Earth, Wisd. 1.

Riths

The Glasse of Stewards.

Riches do not prevail in the day of Revenge: but Justice shall free from Death, Prov. 10. God shall give to the just the reward of their Labours, Wilsd. 10.

And if any love Justice, his Labours have great Vertues, sobriety and virtue, than which there is nothing more profitable in this life to men; Wilsd. 1.

Nothing truly can be honest, which wanteth justice, Tully in his Offices.

From Justice, as out of a certain Fountain, all rights do spring; for a just man hath a will to give to every man his own, Bracton.

Another cause of doing Justice.

It is appointed for all men once to dye, and afterwards to come to Justice; And, as Athanasius saith, At whose coming all men shall rise with their Bodies, and shall give a reason and account of their own works; and they that have done good shall go into life everlasting, but they that have done evil into everlasting fire.

What men have done this present time of life,

Shall reap the harvest, when Go and Come is rise.

Rev. 14. Blessed are the dead which die in the Lord, for their works follow them.

2 Cor. chap. 3. Every one shall receive his reward according to his work.

2 Cor. 4. Whosoever in blessedness, shall reap in blessedness. If Christ had not been born of the Virgin Mary, and dyed for us, no man could have come to eternal life; therefore believe and do justice, and then shall ye have the aforesaid thing promised. And note, that though Christ hath redeemed us, yet if we do evil, it is written, We shall go into everlasting fire; and for that, obey and fear to break the Commandments of God; and then, in doing of Justice, you do the Commandment of God, for which you shall have the thing promised, that is to say, Eternal life; For not all that say unto me, Lord, Lord, shall enter into the Kingdom of heaven; but those that do the will of the Father, saith Saint John: Therefore if you will have eternal life, do Justice; and also remember, that death doth not delay; no man knoweth his day; and therefore prepare your life,

life, and do Justice, because no man knoweth his end; and as Fishes are taken with a hook, and Birds taken with a snare; so the body of a man, in the day of evil.

The third Cause of doing Justice, is, to have a good Report.

Have a care of a good name.

It is better to have a good name then much Riches.

Cursed is the man that neglecteth his good Name.

It is better to have a good Name, then precious Oynements: And to conclude, he saith, What profiteth, if you shall gain the whole World, if you shall lose your own Soul?

The manner of keeping a Court Leet.

First, The Steward shall make a Precept to warn the Court by reasonable warning, as by six or more dayes, as followeth; and it is the better, if it be by fifteen dayes, according to the common dayes in the Bench.

The Precept.

J. K. Steward to the Bayliff thereof, health: I command likewise and appoint, that diligently you give to understand the view of Frank-pledge, of the Court there to be held against the Thursday, that is to say, the sixteenth day of October, next coming, after the date of these presents; and have there this Precept: And at, &c. Dated under my Seal, the first day of this month of October, the year of the reign of Queen Elizabeth, by the Grace of God, of England, France, and Ireland; Defender of the Faith, &c. 21.

Prebenda
de Islington.

Then enter your beginning of your Court-Roll in manner following.

Visus Franc. Plegii cum Cur. J. F. Clerici ibid. Tent. die Jovis, viz. Decimo sexto Die Octobris, Anno Regni Domine Nostrae Elizabethae Reginae, Dei Gratia, Angliae, Franciae, et Hibernae, Fidei Defensoris, &c. Vicesimo primo Tent. per J. K. Senescal. ibid.

Prebenda de
Islington.
Order de
tenor Lect.

It

It is good to make this Entry ; that is to say, *Tent. per J. K. senescal. ibid.* If there be any Copyholders there, for that the Name of the Steward is in the Copy to the admittance ; then after this Entry the Steward shall cause the Bayliff to make O yes, three times, if it be a Leet ; for this is the Kings Court, though the other hath that by Grant, or by Prescription.

B. Proclamation.

In the year 21 Edw. 4. fol. 37. is, That where either adjournment of the Term, or other matter for the King, is, There at the beginning there shall be three Proclamations made; and, in all other matters, which are not for the King, but one Proclamation ; and for that, at the beginning in the Court Baron shall be but one Proclamation ; and in Court Leet (for that it is the Kings Court) shall be three Proclamations, *Scilicet, O yes three times* shall be made.

Note, that none may make Proclamation but by authority of the King, or Mayors, and such like, where they have used it by Custom, 22 H. 6. fol. 19.

Then forthwith, after the three Proclamations made, the Steward shall make the Bayliff to say, *All manner of Persons which are resident, or Deciners, and do owe Suit Royall to this Leet ; come in and make your Suit, and answer to your Names, every one, upon pain and perill which shall ensue.*

And after that all are called, and all who are absent are marked to be amerced, then the Steward shall cause again (if it be in a Leet) to be made three other O yes.

And forthwith, after the three Proclamations made, the Steward shall cause the Bayliff to say ;

If any man will be Effoynd, and in Court Baron ; if any will be Effoynd, or enter any Plaint, come you in, and you shall be heard.

And then the Steward ought to say, Effoynes and profer of Suit and Plea three times, and in the end, Effoyne for this day ; and then the Steward enter the Effoyne in the Court-Roll, as it followeth in the Entry of the Court-Roll.

Then after this the Jury shall be impannelled ; and first, One shall be sworn, and after three or four together, and the Oath shall be as followeth :

You shall inquire, and faithfully make Presentment, of all things which I shall give you in Charge; your Companions Counsell, the King's, and your own, you shall keep; and you ought to present the Truth, and nothing but the Truth: So help you God.

The Oath of the Jury.

But in the Court Baron there shall be omitted in the Oath (to keep the Kings Counsell) for that is no Court of the King's, as a Leet is.

Note in the 27. of the Book of Assises, p. 65. a Juror was arraigned at the Kings Bench as a Felon, for that he was one of the Indictors of certain persons of Felony, and discovered the counsell of his Companions, and in Leet it is counsel of the King: Yet (*Quere*) If he were attaine what Judgment shall be given.

In Felonia tantum.

And when the Foreman of the Jury for Court Leet, or Court Baron is sworn, three or four shall come to the Book together, and shall be sworn together, as afore is said.

To whom the Steward shall say, The same Oath which J.S. your Fore-man hath taken of his part, you, for you parts, well and truly shall observe and keep, So help you God: and so the rest shall be sworn by three or four together, as in a Leet; at least there shall be twelve sworn.

For 6 H. 4. fol. 2. is, That a Presentment in Leet shall be by twelve, and not by fewer; otherwise every Presentment there, is traversable: And 3 H. 7. 4. If any stranger be there, if there be not sufficient residents there to be impannelled, the Steward may impannel a stranger there, for that it is to inquire for the King, and for redressing matters which are annoyances to the Common-Wealth; and if more be sworn then twelve, (as, they may be for the King) yet if twelve of them agree, and the residue not, it is a good Verdict; and it used very often to be fifteen, sixteen, or seventeen of the Jury in the Leet; but a Jury to try an Issue between parties, by twelve only, as it appeareth by 21 Edw. 3. fol. 31. and 29 Edw. 3. fol. 43. And that a Verdict of eleven shall not be taken, 41 of the Book of Assises, p. 11. yet in a Court Baron there may be impannelled and sworn there less then twelve, to inquire of Articles for the lord,

Jurors Leet.

Jury, or Court-Baron.

The cause that the Jury shall be sworn, is, That the end of all controversy to confirmation, is an Oath; and this is the cause that the Juries are sworn, and not otherwise credited: and see *Fortescue*, fol. 54. The Tryal in this Realm by tryal by Twelve, is a good tryal and necessary, as at large by him appeareth.

Exhortation to the Jury.

FEAR God and keep his Commandments, this concerns every man; then I pray you, How have you the fear of God? How do you keep his Commandment, which is the whole Truth, if you do not regard your Oath? Remember also *Jeremiah*, chap. 4. which saith, *You shall Swear in Truth, in Judgment, and in Justice; and so, remove Love, Fear, Hate, and Hope;* that is to say, that you do nothing for love, nor for fear, nor for malice, hatred, hope of benefit and gain, but to present justly; and you ought to remember, who saith, *Be not overcome of evil, but overcome in good Evil, Saint Paul. You shall not receive gifts; because gifts blind the eyes.*

But you ought to present justly, *Deut. chap. 16. Wo to them that call good evil, and evil good, Isa. 15. Thou shalt not anoint thy fist, nor bear false witness against thy Neighbour, Exod. chap. 20.*

The Lips of a Liar are an abomination to the Lord, Prov. 6.

It is just Judgment, where not the person but the works are considered, *Plato*. And so from your hearts expell all affection, and be ye mindfull how many threatnings God hath appointed for breaking of an Oath.

First, the Prophet saith, *Thou hatest all that work iniquity; thou destroyest all which speak a lye, Dan. 5.*

He that blasphemeth the Name of the Lord, shall dye with the death, Levit. chap. 14.

Thou shalt not live, because thou hast spoken a lye, Zechariah 13.

Ananias and Sapphira for a lye in selling a Field, forthwith were slain, *Acts chap. 5.*

And so you see what peril and indignation is from God for not regarding your Oath; And, to utter the Truth, you

you shall be sure to be the children of God, which is Truth, and you shall obtain quietness to your selves, and to all your Neighbours, and your Common-wealth shall flourish with vertue, and Offenders and Sinners shall be punished and abolished: for the Leet is appointed to that end.

And note, that at the beginning, there might be every year as many Leets as he would, which had that in his Mannor.

And after that, Leets were ordained to be held but twice in the year, by the Statute of *Magna Charta, Chap. 35. Scilicet*, within the Moneth of Michaelmas and Easter. Rastall
County,
&c. 2.

6 H. 7. fol. 2. Presentment of Felony in the Turn of the Sheriff, held after the Moneth of Easter, is void, although it were for the King; for the Statute is, That the Sheriff in this Case shall lose his Turn, which is as much to say, all in that shall be void, 38 H. 6. fol. 7. the same. But by Prescription, Leets are held a day certain in the year: And after the Authority of the Leet was enlarged by the Statute, de 18 Edw. 2. called the Statute, *de visu Franchi plegii*: And after by divers others, for what things are inquirable in Leets, as in the Charge more at large may appear: Rastall,
Lect 1. and all the Articles are but for the advancement and preservation of the Common-wealth, as by the Articles of your Charge more at large may also appear: And in so much now, that you see for what cause Leets were ordained, and how the Authority of them is enlarged, for Government of the Common-wealth: Now you ought to consider, that you which are of the Jury are chosen in such manner as the Angells of God are at the last day of Judgment of man; for, as it is written, Then shall the Angells come out, and shall separate the Ill from the midst of the Just: And so you ought to separate the Just from the Ill persons, and you ought to see that the Offenders be punished, and the Just preserved: for as the Touchstone is provided to try the pureness of the Gold and Metals, so are you chosen the Touchstone to see the Weed to be taken from the Corn, and the Corn to be preserved; and you ought to see the King and the Common-wealth preserved, and Justice to be administered, which is the preservation of the King, and his Common-wealth: and so for that, that you see your duties, and Justice.
consider

consider your Oath, I will declare to you the Articles of your Charge.

The Charge in Leet.

17 H. 8.
fol. 2.

*Rastal In-
dictment, 2.*

First, You ought to consider, that some offences (as Petty Treasons and Felonies, which are against the Crown and Dignity) are inquirable and presentable in a Leet, but not punishable there: but by the Statute of 1 Edw. 3. the last Chapter, they ought to be written and Indented, and one part to remain with the Steward, and the other with the Jury, and it ought to be delivered to the Justices of Assize at the next Goal-delivery held within the County.

And first, these following are to be inquired of, and to be certified, as afterwards is said.

Treasons.

First, You ought to inquire, If any counterfeit the Great Seal, Privy Seal, or the Arms of this Realm, and by the 25 Edw. 3. (Rastal, Treasons 1.) they are High Treason, and yet inquirable here as Felony, and to be certified as is aforesaid.

*Counterfeit
Money.*

2 Also if any counterfeit the Money of this Realm, or of another Realm being current in this Realm, it is High-Treason, 1 Mar. (Rastal, Treason 21.) And by Stamford, fol. 3. but inquirable here as Felony.

Seal.

3 Also is the counterfeiting of the Seal Manual, Privy Signet, or Privy Seal, and are inquirable here as Felonies, Rastal, Treason 1. 27 H. 8. cap. 2.

Clipping.

4 Also the clipping, washing, or filing of Money, is High Treason, by 5 Eliz. and inquirable here as Felony, Rastal. Treason 22.

*Kill his
Master.*

5 Also if any Servant kill his Master, or his Mistress, or Priest, or any other Religious person, kill his Ordinary, by the 35 Edw. 3. Cap. 2. Rastal, Treason 1. is petty Treason, and inquirable here as Felony, 12 Book of Assizes, 30.

*Wife, Hus-
band.*

6 Also if any Woman kill her Husband, it is petty Treason, and is inquirable here as Felony, 19 H. 6. fol. 47.

Felonies.

7 Also cutting out of tongues of men, and putting out their eyes of Malice, is Felony, and here inquirable, 5 H. 4. 1. Rastal, Felony 4: 19 H. 6. f. 47.

8. Also

8 Also Murther is, When any of Malice premeditated, killeth another feloniously, and is inquirable here, 14 Edw. 3. *Murder.*

9 Also Man-slaughter is here inquirable, that is to say, When a place is not appointed to fight, but suddenly they fight together, and the one killeth the other when they meet by chance, Stamford, fol. 18.a. It is here inquirable. *Man's slaughter.*

10 Also if one kill the other (in defending of himself) he shall lose his Goods: the same Law, where one killeth another by mischance, Stamford, 15. a. *Se defendendo.*

11 Ravishing of a Woman, as Trespass is inquirable, and where it is not presented before the Coroner, Stamford 23 b. 18. Ed. 3. *Rape.*

12 Rape as Felony, which is Felony made by the Statute, is not inquirable in a Leer, nor any thing given by Statute; unless it be inquirable by exprefs words, but that which is made petty Treason by Statute, is inquirable as Felony by the Common Law, 11 H. 7. fol. 22. *Offences by Statute.*

13 Burglars are those, which in time of Peace break Houses, Churches, Walls, Towers, or Doors, after the Sun set, and before the rising thereof, though he carry away nothing, if their intent may appear that it was to rob or kill, or to commit other Felony, it is Burglary, inquirable here, Stamford fol. 30 b. *Burglary.*

14 Robbery, is when a man taketh any thing from the person of another feloniously, though it be but the value of a penny, it is Felony, and inquirable, Stamford 27. d. 22. of the Assizes 29. *Robbery.*

15 Also burning of a house feloniously done is Felony by the Common Law, and also is burning of Barns in the Night, and inquirable, Stamford 36. a. *Burning of a House.*

16 Burning of a Barn in the night adjoining to a house is Felony by the Common Law, 11 H. 7. f. 1.

17 Also robbing of Churches or Chappels, and taking of any Ornaments out of them feloniously, is Felony, and inquirable. *Robbing Churches.*

18 Theft is the taking of anothers goods, with a fraudulent mind of stealing, against his Will whose Goods they are, and if it be above the value of twelve pence, he shall be hanged, and Theft is here inquirable, Stamford 24 L. *Theft.*

Rescous.]

19 If any rescue any which is taken for Felony : that is Felony, and here inquirable, 1 H. 7. 9.

Taking
Doves.

20 Also taking Doves in the Dove-house in the night, with felonious intent, is Felony, and here inquirable; but not where they are taken in their Roost out of the Dove-house, *Stamford, fol. 25. C. 22. Book of Assizes* 29. 18 H. 8. fol. 2.

Young Pi-
geons.

21 Also taking of young Pigeons, or young Goshawks in their Nests in the night, is Felony; and inquirable here, 18 H. 8. 18 Ed. 4. fol. 8.

Fishes.

22 Also the taking of Fish feloniously out of Ponds, Sews, or Trunks in the night, is Felony, and here inquirable; But otherwise it is, where it was taken in the River; there it is no Felony, 22 *Book of Assizes*, 95 *Quere*, 18 Ed. 4. fol. 8.

Deer.

23 Also the taking of tame Deer, with a Felonious intent, is Felony; the same Law the taking of Signets, Swans marked, and Peacocks, and here inquirable, *Stamford, fol. 25. C. 18. H. 8. 2.*

Receiver.

24 Also if any one receive a Felon, well knowing of the Felony which he had done; that is Felony, and here inquirable, *Stamford, fol. 41. E.*

Felons by
the Com-
mon Law.

25 And note, that all other Felonies, which are Felonies by the Common-Law, as these are, are here inquirable (and see these after in Felony) otherwise the King shall lose year, day, and waste, and the Lord his Escheat.

Accessory.

26 Accessories are inquirable here, and that is, if one procure or command another to do a Felony, but is not present when the other doth it; this procurer or Commander is accessory; Accessary after the Felony, is, where one receives a Felon, and knowing of the Felony, *Stamford, 40 G.*

Scape.

27 Escape voluntary, is, when one arrests another for felony, and after lets him go where he will; that is felony, and here inquirable, *Stamf. 32. I.*

28 Escape negligent, is, when one is arrested for Felony, and after escape against the will of him that arrested him, and be not freshly pursued, and taken, before the Goaler lose the sight of him; that is sineable; and here inquirable. *Stamf. 33. b.*

Petty La-
rarcy.

29 Petty larceny, is the taking of any thing with a felonious intent, under the value of twelve pence, as hens, &c.

The Charge in Court Leet.

19

geese, pigs, or small things out of windows, *Stamf.* fol. 24.
G. and these are here inquirable.

30 Note, that the Lords of which the Lands are held shall have the Lands of Escheat, where their Tenants are attaint in Petty Treason or Felony, and the King shall have (year, day, and waste) by *Magna Charta*, Chap. 22. *Rastol.*

And for that it is inquirable, what Lands and Tenements these persons so offending have, and what goods, for the King, unless the Lord hath the Chattels of the Felons by Charter of the King, 9 H. 7. fol. 23.

31 And so note, That all these matters in the Charge aforesaid, are inquirable and presentable, as is aforesaid; but not punishable here, but shall be certified by the Steward in the Sessions, as is aforesaid, 27 H. 8. fol. 2.

¶ *But now the residue of the matters of the Charge which ensue, are inquirable and presentable, and are also punishable in a Leet, and shall not be certified as these aforesaid shall be.*

1. First, You ought to enquire if the Suitors and Deciners, *Scilicet*, if any of them which are resident appear in person, or not; and, if any of them make default, to present their names: 18 Ed. 2. *Rastall*, Leet 1. the same Book, Chap. 10. *Deciners.*

2. Also if the Capital Pledges appear; for it appeareth by 45 of Ed. 3. fol. 37. that Pledges shall be found for every one that cometh within the Lordship to be of good behaviour, as the manner is; and it is inquirable if every one have found Sureties, 18 Ed. 2. *Pledges.*

3. Also if any hath dwelt within the Lordship by a year and a day, and be of the age of twelve years, and not sworn to the Queen to be loyal and faithful; that is inquirable. *The age of 12 years.*

4. Also if any Villains of the Lord are fugitive, and remain elsewhere out of the Lordship, and are not in the Demesnes of the King by a year and a day without claim; are inquirable: 18 Ed. 2. *Villains.* C 2 5. Also

Customes.

5. Also if any customs or services due to the Court are neglected, how, by whom, and in what Bayliffs time that was, 18 Ed. 2.

Annoyances.

6. Also if any annoyances be made upon the Land, Wood and Water, that Blocks, Stocks, Ditches, Hedges made, or a Ditch made, or filled to the annoyance of the people, that is to the multitude, and not only to one, is inquirable: 18 Ed. 2.

7. Also if any Walls, Houses, Pales, or Hedges be made or erected to the noyance of the people, it is inquirable: 18 Ed. 2.

Wayes.

8. Also if any common Wayes, Waters, Ditches or Paths are turned out of their right course, it is Inquirable: 18 Ed. 2.

9. Also if any bounds are streightned, or carried away: 18 Ed. 2.

10. Also if any Lay-stals are made in Highwayes to the noyance of the People; or if any Carrion be cast into the Highway, to the noyance of the People, it is inquirable.

11. Also if any make any incroachment upon the Kings Highway.

Trespas.

12. Also if any commonly or openly break the Peace, as making frays in disturbing and frightening the People, it is inquirable.

13. Also if there be any common Barretors in the Lordship, as Scolds, Brawlers, to the noyance and disturbance of their Neighbours, present their names,

14. Also if any break the common Pound, or take distress from thence, present their names.

Pound.

15. Also if there be any outcries made against the Laws, to the disturbance of the People, it is inquirable.

16. Also if any Rescous be made within this Lordship, upon the Sheriff or his Bayliff, or any the Kings Officers, in disturbance of taking any person arrested, it is inquirable.

*All members
for a Com-
monwealth.*

17. Also if any Ease-droppers, which stand under Walls, or Windows, by night or day, to hear Tales, and to carry them to others, to make strife and debate among their Neighbours, present their names. *West. 1. cap. 33.*

18. Also if any be common breakers of Hedges, present their names.

19. Also

19. Also if any keep or maintain any Bawdery in their Houses, it is a cause to break the Peace, and is a vice which corrupteth the Commonwealth; and for that, it is here inquirable, 27 H. 8. fol. 17.

*Quatuor his casibus procul dubio cadit adulter;
Aut hic pauper erit aut subito morietur;
Aut cadet in causam qua debet iudice vinci;
Vel aliquod membrum casu vel crimine perdet.*

By these four Chances, without doubt, an adulterous person shall fall; either he shall be poor, or shall suddenly dye, or shall fall into some cause, that he shall be condemned by the Judge, or shall lose some member of his body by chance, or by the crime.

20. Also if there be any Vagabonds or Wanderers, and those which walk by night, and sleep by day; and if there be any which are common haunters of Taverns, or Alehouses and go about, and having nothing to live of, are inquirable, 4 H. 7. fol. 2. In Leet is inquirable of night-walkers.

21. Also if any go of Thieves messuages, it is inquirable,

22. Also if any take Pigeons in the Winter by Nets, or Engines, it is inquirable.

23. Also if any by any way corrupt the common Waters, by Whitening, by Lime, or by Flax, or Stuff laid in the Waters, by which the Waters are corrupt; it is inquirable.

24. Also if any hath, or useth any false measures, of Bushels or Gallons, Yard or Ells, or false Weights, or Ballances, are inquirable, 8 H. 6. chap. 5. Magna Charta, chap. 25. 51 H. 3. Title weights and Measures,

Deceit of Artificers.

False weights.

25. Also if any use double Pounds or Measures; that is to say, a small one to sell by, and a great one to buy by, in deceit of the people, it is inquirable, 27 Ed. 3. 10.

Double Pounds.

26. Assize of Bread and Beer, that this be held seilicet, that every one sell according to the price of Corn, is inquirable, and that it be made wholesome for Men.

Assize of bread.

*Tiplers.
Measures
sealed.
At reason-
able prices.*

27. Also if Tiplers sell by cups and dishes, or measures sealed, or not sealed, is inquirable.

28. Also if Butchers, Fishmongers, Inn-keepers, Haglers, Poulterers, Cooks, Vintners, and all other which sell Victuals, if they sell at reasonable prices, and not at excessive, having regard to the prices that Victualls are sold in places near; and he which is convict, shall pay the double that he hath received to the party damnified; and let it be inquirable, 23 Ed. 3. 6. 10 H.7. fol. 8. By Brian and Hufsey, a Victualler shall be constrained to sell his Victuall, if the buyer offer ready Money; otherwise not.

Butchers.

29. Also, if Butchers, Fishmongers, or other Victuallers, sell any corrupt Victual not wholesome for mens bodies; it is inquirable.

Inn-keepers.

30. Also, that Inn-keepers shall not sell Hey nor Oats, but at reasonable prices, and shall not take for the bushel above one half penny above the common price in the Market, and shall take nothing for Litter: and that is inquirable, 12 R.2.8. Rastall, Victual 8.

31. An Inn-keeper may bake his bread for Horses in his House, in any through-fare Town, which is not a City where common Bakers dwell: and if he bake, and do not make it according to the prizes of Corn, he is to be punished in a Leet: 32 H 3. 14. Rastall, Horse-bread.

*Inn-keeper
suspected
persons.*

32. Also, If any Inn-keeper, or other person, harbour any suspected persons, perceiving or knowing them to be of ill behaviour, it is inquirable.

*Millers
Tolles.*

33. Also, If Millers take excessive Tole, is inquirable: and they ought to take for Tole but the twentieith, or twenty fourth Grain, according to the Custome, and according to the strength of the Water.

*Changing
Corn.*

Or if any Miller within the Lordship, change the Corn which he hath to grind, it is inquirable.

Artificers.

34. Also it is inquirable, If all Artificers make good Ware, as they ought; and, if any of them make deceit in it, to deceive the People, you ought to present their names.

Misdemeanor of Officers.

35. Also, If any Constable, Ale-cunner, Bayliff, or any other Officers within this Lordship, have duly and well done their Offices, or not, is inquirable.

36. Also, No Purveyor shall make any purveyance for the Queens House, of any thing of the value of forty shillings, or under, unless he do it for ready payment to the party, upon pain of losing his Office, and to pay the value to the party grieved; and if he do the contrary, if the Constable or Tything-man upon complaint unto them, do not make resistance to the Purveyor, they shall forfeit to the party grieved the value of the thing taken; and double Damages, and that is the Misdemeanour of the Constable; and of these Misdemeanours, and all other such Officers, is inquirable, 20 H.6. cap.8. *Rastal*, Purveyors 31. And also the Constable ought to see the Peace and Watch to be observed as it ought: 11 H.4. fol.27. That Purveyor, Buyer, or taker for the King, after he is allowed and paid of the King, shall be Debtor to the party; but till payment, the King himself is Debtor.

Purveyors.
See the Stat.
12 Car. 2.
cap. 24.
for discharging all
Purveyance.

See more after in the Office of the Constable, and what is inquirable touching his Office.

For the profit of the
King and
Lord.
Treasure-trove.
Estreys.

37. If any Treasure be found, that is to say, Treasure hid in the ground, and no man knoweth who hid the Treasure, that is to the King, unless it be to the Lord by specialty in Charter, or by Prescription.

38. If any Estreys be, it is inquirable; and that is, if any horses, sheep, hogs, beasts, or Swans, which have come in o this Lordship, and have been there by the space of a twelvemonth and a day, and not claimed, then the Lord may have the property of them by Prescription; but they ought first to be impounded in an open Pound, proclaimed in the Church, and two Market Towns next adjoining; and if none claim them, then they shall be seised, and ought to be put in some several Ground, and not in any Covert or Wood that the owner cannot find them; for if they be in Covert, the property is not changed, though they be there a year and a day.

39. If any Wife be, it is inquirable, and that is when the Thief upon the Hue and Cry is pursued, or otherwise for easing himself of the carriage, without Hue and Cry, he waives his Goods by him feloniously stolen, or any part of them, and flies away, this is forfeit to the King, and the Lord may have it by Prescription: *Stamford*, fol. 280.

waived

Fugitive.

40. If any Fugitive be, that is, if it be found by Indictment of Murder before the Coroner, that he fled; or if he be indicted of Felony, and acquit, and found that he fled, then he shall forfeit his Goods to the King, and the Lord may have them by Charter, and not by Prescription; and that is inquirable.

*Scabbed
Chival.*

41. If any Horse or Mare be put upon the Common, and be scabbed, or having an infectious Disease, he shall forfeit to the Lord of the Mannor ten shillings: 32 H.8. 13. *Rastall*, Horses, &c. b. and this is inquirable.

42. If the Exigent be awarded against one indicted of Felony; by the award of that, his Goods are forfeited, though he be afterward acquit of the Felony, and the King shall have his Goods, and the Lord by Charter, and not by Prescription, or without Charter; and this is inquirable.

Outlawry.

43. If any be outlawed in Debt, Trespass, or other personal Action, his Goods are forfeit, and the King shall have them, and not the Lord, unless that it be by Charter, and not by Prescription; and this is inquirable, 18 Ed. 2.

*Common
Fine.*

44. If a Common Fine hath used to be paid here, that ought to be inquired, that it be paid according to the usage, and that it be collected according to the usage: for it is collected commonly by the Head-Borough, and it is commonly due to the Leet at Michaelmas.

45. Note, That every one that hath view of Frankpledge, ought to have a Pillory and Tumbrel to execute Justice; and also in every Town or in the Leet, a pair of Stocks; and for lack of them, the Town shall forfeit five pound; and that is inquirable.

¶ *Wreck of the Sea.*

*Wreck of the
Sea.*

And for that, that by the Statute of 15 R. 2. chap. 3. Wreck of the Sea may be tryed and determined by the Law of the Land, that for that, and for the profit of the King and the Lord, it is inquirable in the Leet.

The Kings Prerogative, chap. 11. the King shall have Wreck of the Sea throughout the whole Realm, and Sturgeons.

geons taken in the Sea, or other where within the Realm except some priviledged places, be the Kings. *Sturges.*

9 H. 7. fol. 20. A man may have a Wreck of the Sea by Prescription.

10 H. 7. fol. 6. By *Wood*, If I have Wreck by Prescription, and a stranger seise, and not my Bayliff, I shall have an Account against him.

Westminster 1. chap. 5. is, That Goods in a Ship where a Dog or a Cat scapes alive, are no Wreck, but are delivered to the Town or Lord; and if any come within a year and a day, and claim them, and prove them to be his Goods, they are without delay delivered unto him; and if none come within the year and day, they are the Kings. And if the Wreck belong to another then the King, it is done in the same manner: and who shall do otherwise, and of that is attain, he shall be committed to Prison, and fined at the will of the King, and shall pay damages likewise.

If the Goods in this case are fresh Viſtuals, as fresh mear, fresh Fish, Apples, or Oranges, or such things which will not endure for a year, and the Sheriff seeing them, selleth them, and delivereth the money taken for them to the Town to answer for it, it is good, and yet it is contrary to the words of the Statute, but it standeth with reason.

45 H. 3. 32. If the Kings Goods be Wreck, and not claimed within a year and a day, yet the King shall have them; otherwise it is of a common person.

Then there are divers other matters which follow, of which you may inquire by exprefs words in the Statutes, as of the Statutes of apparel, and other Statutes ensuing.

In the year, 24 H. 8. Chap. 13. *Ristal*; Apparel the fifth.

If one hath not in Land a hundred pound, he cannot use Velvet, } in { Jackets, Dublets, Purſes,

Damask } in { Gowns, Silk } Coats, Chamler } Outermost Garments. Taffaty }

Apparell.
Nota, This
Stat. 24 H.
8. Cap. 13.
Repealed
by 1 Jac.
Cap. 25.

Fourty pound cannot use } in { Gowns,
 Chamlet nor Silk, } Outermost Gar-
 ments.

No Velter } in { Jackets,
 Jerkins,
 Caps.

Nor any Silk, but }
 Satten } in { Dublets,
 Damask }
 Taffatie }
 Sarfnet }

Sarfnet } in { Facing their Gowns,
 Chamlet }
 Taffatie }

Twenty pound, no Silk } in { Gowns,
 Cloaks,
 Hose, &c.

No Satten }
 Damask } in { Dublets.
 Taffatie }
 Sarfnet } Coyfs.

But they may wear Chamlet in Jackets.

Five pound, cannot use }
 any Silk } in { Dublets,
 Jackets,
 Gowns,
 Cloaks;

But Chamlet } in { Dublets.
 Jackets.

Furres.

Furres.

NOne under the Degree of an Earl, may use Sa-
bles.

Forty pounds cannot use	}	<table border="0"> <tr><td>{</td><td>Foynes.</td></tr> <tr><td>{</td><td>Jennets gray.</td></tr> <tr><td>{</td><td>Martins.</td></tr> <tr><td>{</td><td>Squirrel.</td></tr> <tr><td>{</td><td>Fox.</td></tr> <tr><td>{</td><td>Grey.</td></tr> </table>	{	Foynes.	{	Jennets gray.	{	Martins.	{	Squirrel.	{	Fox.	{	Grey.
{	Foynes.													
{	Jennets gray.													
{	Martins.													
{	Squirrel.													
{	Fox.													
{	Grey.													

Cony.	{	Or other Fur grow- ing within this	{	Realm;
Hare.				Wales, Ireland.

Twenty pound	}	<table border="0"> <tr><td>{</td><td>Black Cony.</td></tr> <tr><td>{</td><td>Budge.</td></tr> </table>	{	Black Cony.	{	Budge.
{	Black Cony.					
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Under twenty pound	}	<table border="0"> <tr><td>{</td><td>Gray Cony.</td></tr> <tr><td>{</td><td>Black Lamb.</td></tr> <tr><td>{</td><td>White Lamb.</td></tr> </table>	{	Gray Cony.	{	Black Lamb.	{	White Lamb.
{	Gray Cony.							
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{	White Lamb.							

chains of Gold.

NOne under the degree of a Knight, may use any
Collar of S.S.

None may use a Chain of less weight then ten ounces
of Gold.

Forty pound may use Aglets, Buttons, Brooches.

Those persons which are excepted in these Statutes,

Queens Council,

Barons of the Exchequer,

Serjeants at Law,

Apprentices at Law.

Physicians of the King.

Mayors,

Recorders,

Master or Wardens, which

are, or have used this

Rooni.

These may use as before the making of the Statute they
have used.

Forfeiture.

Forfeiture.

THe thing used against the Statute, is three Shillings four pence a day : The Statute is, In his Garment, (In) is taken here, for (In, or Upon) his Garment.

Year the first and second of *Philip and Mary*, no person born within the Dominions of the King, other then the Son and Heir of a Knight, or above that degree, or which might expend twenty pound yearly, or was worth two hundred pound in Goods,

Should use Silk in { Hat, { Girdle, { Shoes,
Bonnet, { Scabbard, { Spur-Lea-
Night-cap, { Hose, { thers.

The forfeiture is for every day, ten pound.

If any man keep servants which offend in these premises, and do not put him out of his service within fourteen days after that he hath notice of it; or if he put him out of his service, and afterward retain him again within a year, he shall forfeit a hundred pound.

Artificers.

2 Ed. 6.
Chap. 15.

IF any Butcher, Brachetour, Baker, Poulter, Cook, Tippler, &c. conspire, covenant, promise, or make any Oath not to sell victual but at certain prices.

Or if a Workman or Labourer, conspire not to work but at certain prices, or not to finish that which another hath begun, or that they will not do but certain labour in a day, or not labour but certain time of the day; it is inquirable.

The forfeiture for the first offence ten pound, and twenty days imprisonment, with bread and water; the second offence, double.

Archers.

IN the Year, 33 H. 8. chap. 9. Every man being the Kings Subject under the age of forty years, not lame, nor having

The Charge in Court-Leet.

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having any Impediment, ought to shoot in a long Bowe, and shall have a Bowe and Arrows, as it followeth; that is to say,

Every Man-child in a house of the age of seven years to seventeen years, shall have a Bowe and two Arrows, and at seventeen years to forty, a Bowe and four Arrows, none under the age of twenty four ought to shoot at Pricks, nor at twelve score, or above, with shaft or Flight.

The forfeiture is six shillings eight pence, for every three months wanting these Bowes and Arrows.

The Master or Father ought to provide for these of seven to seventeen, otherwise he shall pay the forfeiture, and every servant taking wages of seventeen or upwards, shall pay the forfeiture.

The forfeiture for such shooting at Pricks, is four pence the shoot, and at eleven score and under, as above, six shillings eight pence the shoot, by the same Statute.

Butts shall be made in every Town upon pain of forfeiture for every three Months for default of them twenty shillings.

Crosse-Bowes, and Hand-Guns.

NOne may shoot in any Hand-Gun, Demihake, Hagbut, or Crosse-Bowe, or keep it in his house to that intent, not otherwise, unless he may dispend a hundred pound, upon pain to lose for every time ten pound.

33 H. 8.
Chap. 6.

Every person that will shoot, or carry, use, or have in his house or other place, any hand-gun, other than such a one which shall be in the stock and gun of the length of a yard, or any hagbut or demihake, other than such as shall be in the stock and gun, of the length of three quarters of a yard, shall forfeit ten pound.

And every person having Lands, Fees, Annuities, or Offices, of the yearly value of a hundred pound, may seize and take their Guns aforesaid; and also every Crosse-Bowe of any person, not having lands, fees, or offices; to the value of a hundred pound a year.

None, unless he have a hundred pounds by the year, may carry in the High-ways in his Journey, any Crosse-bowes

Bow bent, or Gun charged, unless it be in time of service of war, upon pain of ten pound.

Every one which shooteth in a hand-gun, demihake, or hagbut in a City or Market Town, or within one quarter of a Mile of them, shall forfeit ten pound for every shoot.

If a Master command his Servant to shoot in a hand-gun, demihake, hagbut, or Cross-bow, at a Deer, Foul, or other thing, unless it be at a Bank or Butt of Earth, or in time of War, shall forfeit ten pound.

But there is a Proviso; That Gentlemen, Yeomen, and Servingmen of every Lord Spiritual and Temporal, and of Knights, Esquires and Gentlemen, and the Inhabitants aforesaid of Cities, Burroughs, or Market Towns, to shoot at any Butt or Bank of Earth, so that the Guns be of the length aforesaid.

And the Lords, Knights, Esquires, Gentlemen; and the Inhabitants aforesaid, may also keep them to shoot at Butt or Bank; and so may every person (two Miles distant from any Town) keep them for defence of their Houses.

Also it is lawful for every one, charged by 4. and 5. P. and M. to find Hagbut, to have that in his house.

*Repealed
1 Jac. cap.
22.*

Cordiners, 5 Eliz. chap. 8.

NOne ought to cut or gash any Hydes of Bull, Ox, Heifer or Cow; and if any Tanner offer any so gashed to sell, he shall forfeit for every one twenty pence.

None shall kill any Veal to sell being under the age of five weeks, upon pain for every one six shillings eight pence.

None may, together at one time, be a Butcher and a Tanner, upon pain of six shillings eight pence.

No Tanner shall be a Shoemaker, Currier, or Butcher at one time, upon pain to lose the Leather wrought, or the value.

Nor Tanner tan any Hyde of a Bull, Horse-hyde, Sheep-skin, upon pain of forfeiting the same.

No person may cut any Oak apt to be barked, where the Bark is of the value of two shillings the load, but between

tween the first day of *April*, and the last of *June*, unless it be for building or repairing of a house, upon pain of the loss thereof, and the double value.

None may buy any rough Hides in the hair, but the Tanner, but salt Hydes for Ships.

No Currier ought to Curry any Leather in the house of any Shoemaker.

And none ought to Curry Leather ill tanned.

Crow-nets, 24 H. 8. Chap. 10.

IT is inquirable, If there be no Crow-nets, the Lord shall have the half of ten shillings; which shall be forfeited by the Parish or the Town, for default of having them; for this Statute is revived by 8 Eliz. chap. 15.

And the Statute of 24 H. 8. is, If Inhabitants of any Parish, where there are ten Housholders dwelling at the least, and do not provide Nets to take Crows, Coughs, and Rooks, and keep and renew the same Nets when occasion shall be, and lay that with a shrap of chaff to take the Crows, &c. they shall forfeit ten shillings to the Queen and Lord of the Leet.

Or if Crow-nests are not thrown down in the beginning when they begin to breed, they shall be amerced.

Frye of Fish, 11 Eliz. Chap. 17.

NOne ought to take or destroy any young brood or Fry of Fish in any Waters or Rivers, salt or fresh, nor kill any Trouts or Salmons out of season, and the forfeiture of every branch of this Statute, is twenty shillings.

None may kill or take any Pike or Pickrel, not being in length ten Inches Fish, or more; nor any Salmons, unless in length sixteen Inches Fish, or more; nor any Trout not in length eight Inches or more; nor any Barble, nor in length twelve Inches, or more.

None ought to take any Fish with any manner of net, nor with any other Engine or device (angling excepted) but only with a Net or Tramaile, whereof every mesh shall be two Inches and a half in breadth.

Also

The Charge in Court Leet.

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Also

Also, Where Smelts, Loches, Mynds, Bulheads, Gudgeons, and Eels have been used to be taken, it shall be there lawful to use such a net as they have used before for that purpose.

Note; That the Steward of the Leet ought to charge the Jury of offences made against this Act; otherwise, he shall forfeit forty shillings: and if the Jury conceal any thing, then he may impanel another Jury, to inquire of their concealment; and if that be found, they shall forfeit twenty shillings to the Lord of the Mannor.

If any by day or night, break or destroy the head or dam of any Pond, Pool, Mote, Srank, Stew, or several Pit in which is the Lords Fish, to the intent to steal the Fish, he shall pay to the Lord treble damages, and shall be imprisoned three months; and after, to find surety for seven years for his good behaviour.

Note, This Statute is general, every one to have remedy.

8 Eliz.
Chap. 21.

The same Law is for Deer chased out of the Lord's Lands inclosed, or killing any Deer of the Lords. And taking of any Hawks in his Land, or Eggs of them, he shall have the same punishment by the same Statute.

13 Eliz. Chap. 10. provideth, and is inquirable, If any kill or destroy any Pheasant, or Partridge with any Net, Snares, Ginns, or devices in the night, That he shall forfeit for every Pheasant twenty shillings, and for every Partridge ten shillings; one half to the Lord of the Mannor where it is, and the other to the Informer: and that none Hauke or Hunt with Spaniels in any Land where is Corn, or other Grain then growing, (unless it be in his own Land) at such time as any eared or codded Corn shall be then growing upon the same Land, before the same be shocked, hiled, or cocked; upon pain of forty shillings to the party.

Also it is inquirable, If a Fisher for his part do his duty in bringing Fish to the Market which is good and wholesome for men, not corrupt; and that he sell the same at reasonable prizes, and without taking excessive gains, *scilicet*, for every twelve pence bestowed, shall have but clear gain one penny; and if it be stinking, that it be burnt openly forthwith.

Games unlawfull, 33 H. 8. chap. 9.

NOne for his lucre or gain, ought to keep any house, Alley, or place of Bowling, Dicing, Tabling, Carding, Tennis, or other unlawful gaming, upon pain every day forty shillings.

And every person using the same to lose for every time six shillings eight pence.

And if the Constables and Bayliffs do not make search every Moneth, they shall be amerced forty shillings the Moneth.

No Artificer, Husbandman, Handicrafts man, Apprentice, Journeyman, or servant of an Artificer, Marriners, Fishermen, Watermen, or any Servingman, ought to play at any unlawfull Games aforesaid, but at Christmas-time, upon pain to lose twenty shillings for every time, and in the Christmas, to play in their Masters houses, or in their presence.

No person ought to bowl in any place out of his garden or Orchard, pain six shillings eight pence.

But it is lawful for Noblemen, and every one that may *Noblemen* dispense a hundred pounds *per annum*, in Lands, or profits for life, to license their Servants and others comming to their houses, to play at Bowles, Cards, Dice, and other unlawfull Games, and ought not to undergo the penalty of this Statute.

Horses, 32 H. 8. chap. 13.

NO Stone-horse being of the age of two years, unless he be fourteen handful high, shall be put to Pasture in Common, Forrest, or Chase, upon pain of forfeiting the same Horse.

The said Lands ought to be yearly driven at *Michaelmas* by the Lord, Tythingman, Constables, &c. or within fifteen dayes after, upon the pain of forty shillings. and if upon the said driving there be found any Filly, or Fole, or Gelding, not able to bear Foles, or not able to work, the same shall be kill'd and buried.

The Charge in Court-Leet.

None ought to put upon a Common any Horse, Mare, or Gelding, infected with Scab or Mange, upon pain of forfeiting ten shillings.

Note, That the Presentment against this Statute, ought to be certified by the Steward at the next Sessions of the Peace, upon pain that he shall forfeit forty shillings.

Hue and Cry, 18 Ed. 2.

ALL commonly are taken and called at the Summons of the Sheriffs, and at the Cry of the Countrey to pursue and Arrest the Felons when occasion shall be, as well within Liberties as without, 3 Ed. 3. chap. 9.

And if the Robbers escape, the Hundred, with the Liberties thereof, shall make recompence to the party robbed, within half a year after the Robbery committed, *Winton* 13 *Edw.* 1. chap. 2. And if it be upon the borders of the Hundred, then both Hundreds shall make recompence.

Westminster 1. chap. 9. To take Felons, the Statute wills, that all commonly be ready at the Commandment, and at the Summons of the Sheriff, and at the Cry of the Countrey, to pursue, to Arrest Felons, when occasion shall be, as well within Liberties as without, and shall give a Fine to the King for not doing. See the Statute of *Winton* in the time of *Edw.* 1.

The Office of the Crown, title Coroners 2. have power to enquire if Hue and Cry be made, and if all follow the Hue and Cry; and he that doth not, and upon this is convicted, he shall be attached to appear before the Justices of the *Quail Delivery*.

21 *Edw.* 1. If a *Forrester*, *Park-keeper*, or *Warrener*, shall find Malefactors wandering to make some Damage there, after the Hue and Cry raised to the Peace of the King, that they will not stand and yield themselves, but to execute their malice, and to continue it, and to the disturbance of the Kings Peace do fly away, and by force and arms defend themselves; if they shall kill these Malefactors, they shall not for this occasion be called before the King and the Justices.

High-ways, 2 & 3 P. & M. Chap. I.

For amending of High-ways to Markers, shall be chosen on Tuesdays or Wednesdays in the week of Easter, two Surveyors; and if any chosen refuse, the pain is twenty shillings; and by that Statute, every Labourer ought four dayes to work, and three dayes shall be appointed the next Sunday following in the Church, and to be made before Midsummer.

He which hath a Carve of Land, or Pasture, or a Cart, shall be there four dayes with i., and two men; upon pain of ten shillings a day.

And every House-keeper, Cottager, and Labourer, not being hired servants by the year, shall be there four dayes upon the pain of twelve pence a day, and ought to labour eight hours in the day.

Provided; that every one before charged, labour six dayes, 5 Eliz. c. 13.

and that giveth Liberty to rake Rubbish; small stones of Quarries, Sand, Gravel, or Synders; and to gather stones upon other mens Lands; and provideth Liberty to turn the course of Waters out of the High-ways, and that Ditches of every part of the High-ways be scowred by them adjoyning, and that Trees, Hedges, and Bushes, be cut by the Owners; which grow adjoyning to the High-ways, according to the Statute of 5 Eliz. by which the Wayes ought to be opened, and the people to have ready passage. 8 H. 7. f. 8. 18 Eliz. chap. 9.

Every one chargeable as a Cottager by former Law, and assises in goods at five pound, or forty shillings in Lands (if he dwell not in London) shall find two men every one of the six dayes.

And if one dwell in one Parish, and have part of a Carve of Land there, and part in another Parish, he shall find a Cart where he dwelleth.

And if one have two plough-Lands in two severall Parishes, he shall find in every one a Cart.

Pain, ten shillings for not scowring of Ditches and cutting Bushes according to the Statute, fifth year of Elizabeth.

Pain, twelve pence the Roll for not ditching and scowring

ring Ditches; pain, for casting out that which is scowred in Ditches into the High-way; for every load twelve pence.

wardens of the Church. The half of all forfeitures by these Statutes, shall be to the Church-wardens to bestow upon Wayes.

*Repealed 39
El. cap. 18.*

Hats and Caps, 13 Eliz. chap. 19.

Rastall 7.

Every person within the age of sixty years, ought to use upon the Sabbath, and Holy Dayes, if it be not in the time of their travell out of the Town, upon their Head a Cap of Wool, made and dressed in *England*.

Except {
Maidens.
Dames.
Madams, and Gentlewomen.
Noble Personages.
Every Lord and Knight.

Gentlewomen of twenty Marks, and their Heirs, such which are in any office or worship in City or County.
Wardens of Worshipfull Companies in *London*.
} Are accepted also.

The Forfeiture is, three shillings four pence the day, one half to the Lord of the Leet, the other to the Poor.

Also the Parents, Gardians, Governours, and Masters, ought to pay the Forfeiture for their Children, Servants, and Wards, 21 years, till they be out of their charge.

Hemp.

*33 H. 8.
chap. 17.*

If any water any Hemp, or Flax in any River, running water, Stream, or any other common Pond, or Water, where Beasts are used to be watred, but only upon the Land where Pits appointed for the same, or otherwise in the several Ponds, they shall forfeit twenty shillings, and remedy given to sue for the same in a Leet by Action of Debt, Bill, Plaint, Information, or otherwise.

Musters,

Musters, 4 and 5 P. and M. chap. 3.

HE that refuseth to come to Musters before any person authorised to take it, shall be imprisoned for ten days if he do not pay to the Queen forty shillings: And if any person appointed to take Musters, receive any money to release any appointed to serve, he shall forfeit ten times as much as he receives.

Mortmain, 7 E. 1. West. 2. C. 32.

NO man entrench into Religion, or other whatsoever, to buy or sell Lands or Tenements, or under colour of Gift or Term, or by reason of any others Title whatsoever, to receive Lands or Tenements of any body, or by any other Art or Wit, to presume to appropriate it unto himself, upon the forfeiture thereof, by which the Lands and Tenements aforesaid should come to Mortmaine by any means. If any shall do contrary to this Statute, it is lawfull to the chief Lord of the Fee, within a year, from the time of the alienation thereof, to enter and to hold in Fee and Inheritance; and if the chief Lord be negligent, then the next chief Lord may enter within half a year after, and so every Lord shall have half a year, till it come to the King.

Riots, 1 M. 1. chap. 12. expired. See 1 Eliz. Chap. 16.

IF any persons to the number of twelve assemble unlawfully, to alter and change Laws, to break Enclosures, Banks, Conduits, Stacks, Fish Ponds, Houses, Barns, or to burn Stacks of Corn, or such like Riots, and Proclamation be made by the Sheriff, or Justice of Peace; and notwithstanding they remain together by the space of an hour, after the Proclamation made, every such attempt is Felony. Every Copy-holder, being a Yeoman, Husbandman, or Labourer, being of the age of eighteen years, or under forty, not sick, nor having reasonable excuse,

and being required by the Justice, Sheriff, or his immediate Lord, to serve, to apprehend the persons aforesaid, and refuse; he shall forfeit his Estate, during his Life, and his Lord may enter.

The Farmer being a Yeoman, and refusing, is in the same case to his Landlord.

Also it is Felony, if a Man, Woman, or Servant, or other person without compulsion, bring, send, or deliver any Money, Harness, Artillery, Weapons, or Victuals to any persons assembled in such manner; and not depart to their Houses upon command, or Proclamation made, as is aforesaid; and if any number, besides the number of those which are assembled: and upon Proclamation made, do not depart, the Justice of Peace, or chief Officers of the City, or Burrough-Corporate, may raise Power to suppress them.

And if any Officer kill any of those rebellious persons, or maim them, they shall be free.

Also if any person knowing such pretended Rebellion, and do not reveal the same within twenty hours after such knowledge had of it, he shall be imprisoned by the space of three Months without Bail or Mainprise, unless he be otherwise discharged by the Justice of the Peace.

Also, if any refuse, being able to suppress such Offenders, he shall suffer imprisonment for a year, without Bail or Mainprise.

Also, if any hinder or lett, that Proclamation cannot be made, this is Felony.

Note, that this Statute ought to be read, or openly declared in every Leet.

10 H. 7. fol. 12. If one come and enter into Land with more then is accustomed to have attending upon him, that shall be said with force.

21 H 7. fol. 39. One may make an Assembly of People in his House to aid him, for that it is his Castle; but not to go to the Market, although he be threatned.

17 Ed. 4. fol. 4. Where there is an assembly in manner of War, and no Act done, it is no assault; by Pigat, if they draw no weapon, &c. *Quere.*

Riot is not, unless three at least, which do an unlawfull Act.

An unlawful Assembly, is, if the People assemble themselves together for an ill purpose, though they do nothing.

Rout is, where there assemble a number, and after march, or ride, or go apart, or move to ill in their own quarrels, though there be no act done (Title five in *Marrows* reading) as to throw down inclosures in their quarrel, this is a Rout.

14 H. 7. fol. 28. If a Disseisor have a possession by three yeare, and holdeith with force : Action upon the Statute of 8 H. 6. doth not lye against him ; but he may be indicted, upon that Statute, for this is for the King.

7 Ed. 4. fol. 18. Indictment of forcible Entry upon the Statute of the eighth year of H. 6. was removed into the Kings Bench ; and the Justices there might well award Rstitution, as the Justices of Peace might have before them, 4 H. 7. 19. 32 H. 6. fol. 2. Saith in forcible entry, where the Defendant pleads Title, that they ought to traverse, (without that) he entred with force ; see 1 H. 7. fol. 19..

7 H. 6. fol. 14. Presentment of the forcible entry ; the Defendant pleads to the (force and arms) Not guilty ; and it is not good, but he ought to plead over to the Disseisin ; but in Trespass, Not guilty is good.

15 H. 7. fol. 17. Where the Plaintiff maketh Title, and traverseth the Bar, and the Title is found for the Plaintiff, they shall not inquire of the force, for it is implied, and so if the Bar be not found.

1 H. 7. fol. 19. If the Title be found, they need not, nor ought not to inquire of the force ; and for that, that the Plaintiff alledgeeth that J. S. the Defendant entred with ten persons, and doth not name their names ; it is uncertain, and not good.

2 H. 7. fol. 16. It is said, That if one disseised another to the use of two, that they two are Disseisors by their agreement afterwards, not with force ; and if he be found against the Disseisor, he shall be attaint by force.

6 H. 7. fol. 12. Forcible entry upon points of the Statute ; the Defendant pleads, Not guilty, and found by Verdict, that he entred peaceably, and not with force ; and for the Statute is in disjunctive, the Plaintiff shall recover, 3 Ed. 4. fol. 10. 10 Ed. 4. fol. 13.

The Charge in Court Leet.

10 H. 7. fol. 14. It seemeth, A Tenant for years shall not have an Action upon the Statute of 8 H. 6 ; For it is in the realty ; and one cannot be impannelled, for that he cannot expend forty shillings by the year, 3 E. 4. fol. the last, 8 Ed. 4. fol. 9.

1 H. 7. fol. 15. Feoffment with warranty, and rely upon warranty, it is good upon the Statute of 8 H. 6. for it is in the realty, but not upon the Statute, 1 H. 7. fol. 12. 2 H. 6. fol. 19.

Queen, and assurance of her Power.

IN the Year, 5 Elix. Chap. 1. If any extoll or set forth the Authority of the Bishop of Rome, against the form of this Statute, he runs into a *Premunire*. And this Statute is to be read and declared in the Leet.

Tracing of Hares, 18 H. 8. Chap. 11.

NOne may Trace, destroy, or kill, Leveret in the Snow with Dog, Bitch, or otherwise ; and who doth so, shall for feic six shillings eight pence.

wines, 7 Ed. 6. Chap. 5.

NO person may utter by retail by small measure, any *Gascoigne Wines*, or *French Wine*, but after the rate of eight pence the Gallon, at the most ; nor any *Rachel wine*, but after the rate of four pence the Gallon ; nor any other Wine at a higher price then twelve pence the Gallon, at the most, upon the pain of five pound every offence.

None shall have a Vessel of Wine in his house above ten Gallons, to spend there, unless he be worth a thousand Marks in Goods, or a hundred Marks in Lands, or be the Son and Heir of a Duke, Marquess, Earl, or Lord, upon the pain of ten pound.

Note, That Vintners of London have a toleration for them, and others authorised by them, by Letters Patents from the King, for divers years to come, to dispence with them,

Breviate of the Charge.

41

them, that they shall not sell according to the price comprized in the Statute.

Now if all the defaults and pains which were presented at the last Leet are amended, or not as they ought, and present them; and of them, and of all other matters and defaults, common annoyance to the Common-wealth, you shall inquire of, and present.

Then after this Charge is given, the Steward shall command the Cryer to make Proclamation; and after Proclamation made, three times, then the the Steward shall say,

If any can inform the Steward, or the Jury, of any Petty Treason, Felony, Petty Larceny, Amoyances, or Bloudshed, Pound broken, or of Rescues, or of any other thing, made against the Peace, or of any person of common ill behaviour within the Leet; or any Wackmen using common Deceit; or of any common Misdemeanour of any Officer, or other person there; or of any Waife, Estrey, Treasure found, or of any other thing here inquirable, Come you in, and you shall be heard.

Then if any come in, let him be sworn to give evidence to the Jury.

And after that, the Steward shall say to the Jury, Go together, and inquire ye of the matter of your Charge, and when you are agreed, I shall be ready to take your Verdict.

The end of the Charge.

A Breviate of the Charge.

Here followeth a Breviate of the Charge, which will suffice for the Steward, which is perfect in the Charge, for his remembrance is sufficient.

And first, What Articles are inquirable by the Statute, 18 Ed 2. fol. 82. Which follow.

Fairfax, 12 Ed. 4. fol. 82. Which follow, saith, There is no Statute, but rehearfall of Laws inquirable in Leet.

Perry

The Charge in Court Leet.

10 H.7. fol.14. It seemeth, A Tenant for years shall not have an Action upon the Statute of 8 H. 6 ; For it is in the realty ; and one cannot be impannelled, for that he cannot expend forty shillings by the year, 3 E. 4. fol. the last, 8 Ed.4. fol.9.

1 H.7. fol.15. Feoffment with warranty, and rely upon warranty, it is good upon the Statute of 8 H.6. for it is in the realty, but not upon the Statute, 1 H. 7. fol. 12. 2 H. 6. fol. 19.

Queen, and aſſurance of her Power.

IN the Year, 5 Eliz. Chap.1. If any extoll or set forth the Authority of the Bishop of Rome, against the form of this Statute, he runs into a *Præmunire*. And this Statute is to be read and declared in the Leet.

Tracing of Hares, 18 H.8. Chap.11.

NOne may Trace, destroy, or kill, Leveret in the Snow with Dog, Bitch, or otherwise ; and who doth so, shall forfeit six shillings eight pence.

Wines, 7 Ed. 6. Chap. 5.

NO person may utter by retail by small measure, any *Gascoigne Wines*, or *French Wine*, but after the rate of eight pence the Gallon, at the most ; nor any *Rachel wine*, but after the rate of four pence the Gallon ; nor any other Wine at a higher price then twelve pence the Gallon, at the most, upon the pain of five pound every offence.

None shall have a Vessel of Wine in his house above ten Gallons, to spend there, unless he be worth a thousand Marks in Goods, or a hundred Marks in Lands, or be the Son and Heir of a Duke, Marquess, Earl, or Lord, upon the pain of ten pound.

Note, That Vintners of London have a toleration for them, and others authorised by them, by Letters Patents from the King, for divers years to come, to dispence with them,

Breviate of the Charge.

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them, that they shall not sell according to the price comprized in the Statute.

Now if all the defaults and pains which were presented at the last *Leet* are amended, or not as they ought, and present them; and of them, and of all other matters and defaults, common annoyance to the Common-wealth, you shall inquire of, and present.

Then after this *Charge* is given, the *Steward* shall command the *Cryer* to make Proclamation; and after Proclamation made, three times, then the the *Steward* shall say,

If any can inform the *Steward*, or the *Jury*, of any Petty *Treason*, *Felony*, Petty *Larceny*, *Annoyances*, or *Bloudshed*, *Pound broken*, or of *Rescues*, or of any other thing, made against the *Peace*, or of any person of common ill behaviour within the *Leet*; or any *Workmen* using common *Deceit*; or of any common *Misdemeanour* of any *Officer*, or other person there; or of any *Waife*, *Estrey*, *Treasure found*, or of any other thing here inquirable, Come you in, and you shall be heard.

Then if any come in, let him be sworn to give evidence to the *Jury*.

And after that, the *Steward* shall say to the *Jury*, Go together, and inquire ye of the matter of your *Charge*, and when you are agreed, I shall be ready to take your *Verdict*.

The end of the Charge.

A Breviate of the Charge.

Here followeth a *Breviate* of the *Charge*, which will suffice for the *Steward*, which is perfect in the *Charge*, for his remembrance is sufficient.

And first, What *Articles* are inquirable by the *Statute*, 18 Ed 2. fol. 82. Which follow.

Fairfax, 22 Ed. 4. fol. 82. Which follow, saith, There is no *Statute*, but rehearfall of *Laws* inquirable in *Lee*.

Petty

Breviate of the Charge.

Petty Treason, { As clipping of Money,
 { And falsifying Money.

Felonies, { As common Thieves,
 { Receivers of Felons.
 { Of small Thieves, as
 { of Sheep, Hens, and
 { Corn stoln.

Escape. { Of Thieves, and men impriso-
 { ned, and let go without war-
 { ranty.

Rape, { Of ravishing a Woman which is not
 { presented before the Coroner.

Suitors, that is { Resiants, which owe suit Royall,
 to say, { And capital pledges and Deciner,
 { Of these of twelve years, and not
 { sworn.

Customs and services forborn.

Annoyances made in Lands, Woods, and Waters, of
 Walls, houses, Ditches, hedges, made or pulled down to the
 annoyances of the people.

Of Wayes and Pathes taken away or stopped; of Wa-
 ters wrong turned, or stoppt, or taken away; of corrupters
 of Water by Lyme, Flax, &c.

Ill persons for { Of them that go of errands for thieves.
 the Common- { Of common breakers of hedges.
 wealth, { Of maintainers and keepers of Bawdry.
 { Of those which sleep in the day, and
 { walk in the night, and have nothing
 { to live on.
 { Of those which daily haunt Taverns,
 { and have nothing to live on.
 { Of those which catch Pigeons in the
 { Winter, with Nets or Engines.

Trespas. { Of blood spilt.
 { Of Play made.
 { Of common Barretors and Scolds.
 { Of breaking the common Pound.
 { Of Out-cryes against Laws.

Misdemeanors

Breviate of the Charge,

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Misdemeanour of Officers, { Of rescuing from the Officer of the King.
Of Constable that keepeth not the Peace,
Bayliff, Purveyor.

Constable, { Apprehend Felons.
See the Watch kept.
That he arrest men armed.

For good Government, let there be { Stocks.
Pillory.
Cucking-stool.

Suspect persons, { Vagabonds, and
Rogues.

Affise of Bread and Beer, { Inne-holders.

Of false Measures,
False Ballance and Weights, } of { Burchers.
Double Measures and Weights, } of { Victuallers.
Millers.

*Deceit in
Artificers,*

Treasure found of Outlaws.
Of Hue and Cry raised, and
not pursued.

Of flyers to Sanctuaries and
Churches.

Goods of Felons.
Estreys and Waifs; *Scilicet*, If
they flie.

Exigents upon Indictments.
Felony.

Common Fine.

*Profits for
the King,
and some
for the
Lord.*

These Articles ensuing, are inquirable by expresse words
of the Statutes here ensuing; that is to say, Apprentice
which hath not Land to the value of twenty shillings,
7 H.4. chap. 14.

Apparrell, by 24 H.8. chap. 13. and by 1 and 2 Phil.
and Mary, chap. 7.

Artificers, by 2 Ed.6. chap. 15. and by 24 H.8. chap. 12.

Archers, by 33 H.8. chap. 9.

Butts, by 33 H.8. Chap. 9.

Cross-bows, and Hand-guns, by 33 H.8. chap. 6.

Shoemakers and Tanners, by 5 Eliz. chap. 8.

Crowe

Crow-Nets, by 24 H. 8. chap. 9.

Frie of Fish, by 1 *Eliz.* chap. 17. and by 5 *Eliz.* chap. 21.

Games unlawful, by 33 H. 8. chap. 10.

Horses, by 32 H. 8. chap. 13.

Hue-and-Cry, by 18 *Ed.* 2.

High-wayes, by 2 and 3 *Phil.* and *Mary*, and by 5 and 18 *Eliz.*

Hats and Caps, by the 13 *Eliz.* chap. 19.

Hemp and Flax, by 33 H. 8. chap. 17.

Musters, by 4 and 5 *P.* and *M.* chap. 3.

Mortmain, by 7 *Ed.* 1. *Rastal*, 3.

Riots, by 1 *Mary*, chap. 22.

Talkers of the King, by 20 H. 6. chap. 8.

Tracing Hares, by 14 H. 8. chap. 10.

Wines, by 7 *Ed.* 6. chap. 5.

Weifs and Streys, Goods of Felons.

Decayed house of husbandry, for the benefit of the King and Lord of the Mannor, 4 H. 7. chap. 19. 10 *Eliz.* C. 2.

Then let us see what things are argued and allowed in our Books to be inquirable in Lect; and what not.

First, Things at the common Law, are inquirable, and not defended by Statute; unless that the Statute maketh mention by expresse words, what are inquirable. 1 R. 5. fol. 1. 3 H. 7. fol. 1. 6 H. 7. fol. 4. & 11 H. 7. fol. 22. the same.

Petty Treason.

Petty Treason is inquirable, but as Felony at the common Law, 6 H. 7. fol. 4. It is said, That Treason, as forging of Money, is inquirable: 9 H. 6. fol. 44. Clipping of Gold and Silver is inquirable, 22 *Ed.* 4. fol. 22.

Felonies.

Petty Treason, and ancient Felonies; that is to say, Felonies at the Common Law, but not the death of a man.

Rap.

And Rape as Felony is not inquirable, but as Trespass, 7 H. 6. fol. 13. 6 H. 7. fol. 4.

Felonies.

Presentment in Lect of Felonies, at the Common Law is good, but presentment there of Felonies by the Statute is not good, 22 *Ed.* 4. fol. 22.

You cannot inquire there of the death of a man, 41 *Book of Assize* 30. and the Lord which inquires of that, shall be fined forty shillings.

Death.

You may inquire there of all Felonies at the Common Law, but not of the death of a man, 22 *Ed.* 4. fol. 22.

You

You may inquire there of all Felonies at the common Law, and not of Felonies by Statute, unless it be by express words given, 6 H. 7. fol. 4. 11 H. 7. fol. 22.

The Steward may certifie Presentment of Felony taken in *Leet* before him, at the next Sessions, 27 H. 7. fol. 2. 8 H. 4. fol. 18.

Of Felonies and Frayes, are inquirable, 10 H. 6. fol. 7.

Adjudge, that assault upon a person only is not inquirable there, but of Bloudshed it is, 8 Ed. 4. fol. 5. and 4 H. 6. fol. 9. Common Nuisance to a number of men, is inquirable, but not an assault made to one, but Frayes. *Trespasse.*

If a stranger make a Fray within the Leet, and be not taken, the Deciners shall be amerced, and it is inquirable there, 50 Ed. 3. fol. 5.

Bloudsheds are inquirable, 1 R. 3. fol. 1. 22 Ed. 4. fol. 22. the same.

P. esentment, that one hath received one by the year into his service, not sworn to the Queen, is good, and he shall be amerced, 41 Ed. 3. fol. 26. *Age of twelve years not sworn.*

Purprestures are inquirable, but the Steward hath no power to inquire of Liveries, nor of things defended by Statutes, 1 R. 3. fol. 1. 3 H. 7. fol. 1. *Purpresture & Nuisance. Laborers.*

You cannot there inquire of the Statute of Labourers, 6 H. 7. fol. 4.

Stopping the high-way, is there inquirable, 27 H. 8. fol. 32. for that is a common annoyance to all the Subjects of the Queen. *The Way.*

All common annoyances and Purprestures made within the Leet, are there inquirable, 8 H. 7. fol. 4. *Nuisance.*

Purprestures in high-ways are inquirable there; and one was presented and amerced in a Leet, for not cleansing his Ditch adjoyning to the high way, 47 Ed. 3. fol. 12. *The Way.*

Inquirable are there of Bridges and Causeys, and of common ways spoiled; of Gors put into waters, of Commons, of waters stopped, or forced, or turned; of Walls or Ditches made to the hinderance of Passengers in the common ways, by Britton, fol. 31. *Bridges. Water.*

Common Nuisance, as ditches and hedges, made to the disturbance of the common People, shall be there inquired, 9 H. 6. fol. 44. 10 H. 6. fol. 7. *Nuisance.*

Turn, and Leet are all one, and they may inquire of common annoyances, as of bloudshed, and of night-walkers, but *Turn of the Sheriff.*

but not of a Close broken, for that is particular; but they may inquire of a ditch not scowred, or of a bridge broken, 22 Ed. 4. fol. 21.

Nuisance.

Presentment in a *Leet* that J.S. hath inclosed such Land, which ought to lye in Common for the Inhabitants of the Town, is a void Presentment; for it is wrong, but no common annoyance: 27 Assise 9. and 27 Ed. 3. Fitz. Nuisance 6 Br. 30.

Leet hath power to amerce a man for an Annoyance, and also to award that the offenders shall be restrained to amend that.

Bread and Beer.

Of Bread and Beer shall be there inquirable, and not in the turn of the Sheriff, but seek, 18 H. 6. fol. 13.

False Measures.

False Weights and Measures are there inquirable, by Britton, fol. 32. 71.

Mortmain.

Of Tenements aliened in *Mortmain*, are inquirable there by Britton, fol. 32.

Tanner.

Presentment in *Leet*, that he is a *Tanner* and *Shoemaker*, is not good, 3 H. 7. f. 1. For it is no offence at the Common Law, but given by a Statute: but see 56 Eliz. chap. 8.

Of *Forestallers*, and taking of *Victuals*, to the use of the King more then need, by Britton, fol. 33. are inquirable.

Takers of the King. Night-walkers. Weifs.

It is allowed that *Night-walkers* are there inquirable, 4 H. 7. fol. 1.

Weif cannot be presented in the hundred, but in the *Leet*, 44 Ed. 3. fol. 19.

It may inquire of corrupt *Victual*, 27 H. 8. fol. 2. Title *Leet*. 16. 9 H. 6. fol. 53:

Water.

DOctor and Student, fol. 177. The King is bound by old Custom of the Realm, as Lord of the Narrow Seas, to scowre the Sea from Sea-Pirates, Britton 84.

The Sea is common, and also right to fish in the Sea.

8 Ed. 4. fol. 10. It is said there, That every one may fish in the Sea by common right, and by *Choke*, If the Water ebbe and flow upon my Land, every one may fish there.

Fitzherb. 113, A. The King may see that Rivers and Sewers

Sewers of the Sea be defended ; and for that may award a Commission by Common Law, and so may of Bridges and Wayes.

Fitz. 98. g. Action upon the case lieth against a Neighbour, which hath Lands between him and the Sea, which doth not make his Banks, or sewers his Ditches, by which his Land is drowned.

19 *Book of Assise.* It was found by Commission, that the River of *Lee*, which runneth from *Ware* to *Waltham*, and so to *London*, is the high stream of the King : Quære.

22 *Ed. 3. fol. 22.* If Water run betwixt two, and by little doth diminish the soil of the one, and doth increase the other, if there be not bounds fixt, if this increasing had been so little, that one could not perceive it; but if it be by hasty increase, there the other by this shall not lose his soil, unless the River be an arm of the Sea.

And note, that every Water which flows and ebbs, is an arm of the Sea, so long as it floweth and ebbeth, 22 *Ass. 93.*

4 *Ed. 4. fol. 29.* Trespass in fishing in his several fishing, the defendant prescribes to have a common of fishing there, and may prescribe to have that appendant to Land as well as common appendant.

4 *E. 3. title Tr. spass, 222.* Trespass in his free fishing, this is intended to be anothers soil.

34 *Of the Book of Assize 11.* Assizing of common fishing, in Tyse, from such a place to such a place, and makes Title in his plaint ; for that it was profit to take in another soil, and sheweth, that one had fishing, belonging appurtenant to his Mannor, and by deed granted that to him.

43 *H. 3. title 441. B. Assize,* Assize of freehold, and plaint of a fishing, and good.

7 *H. 7. fol. 13.* Trespass in his several fishing ; the Defendant prescribes, that the Abbot was seised of a Mannor, and prescribeth to have free fishing from such a place. By *Wood*, a man may have a free fishing in another water, but not several.

17 *Ed. 4. fol. 6.* Why by force and arms he fished in his several fishing ; the Defendant pleads, That the place where, &c. is his Freehold, and by *Choke* it is no Plea, but an Argument ; contrary by *Brian* : for a several fishing is his own soil by him, and free fishing is in anothers

another's soil, which *Littleton* granted, 18 Ed. 4. fol. 5. It was adjudged a good Plea by the whole Court, 18 H. 6. 29.

20 H. 6. fol. 5. Trespas for fishing in his several fishing, the Defendant saith, That the soil covered with water is his Freehold, and is held a good Plea to the Action, 22 Ed. 4. Title 116. Barr. F.

18 Ed. 4. fol. 4. A man shall not have an Affise only of water without Land; so if he saith, That the place is only covered with water, which is his Freehold, it is a good Plea in Trespas.

7 H. 4. fol. 9. Action upon the Case lyeth, for that the Defendant ought to repair a Wall of the *Thames*, and doth not, by which his Land is drowned, 7 H. 4. fol. 32.

Magna Charta, Chap. 23. All Kedels shall be put down from henceforth, almost throughout all *Enland*, unless upon the Sea Coasts.

There are but two Writs in the Register for fishing, that is to say, in a several fishing, and in a free fishing. See the Register, in 34, 95, 103.

Petty Treason is the first Branch in the Charges, and for that something is to be remembred, which I find in our Books, touching these Treasons.

IF Coyners of the Tower make Money of false Metall, or less in weight by half, it is Treason, and he which uttereth it knowing, is a Traytor, 3 H. 7. fol. 10.

Where a Servant killeth his Mistres, or traicerously slew her, he shall be drawn and hanged; and yet the Statute is, Where the Servant kills his Master; for it ought to be as well to one as the other, 19 H. 6. 47.

A Woman of the age of thirteen years was burnt, for that that she kill'd her Mistres; which proves, That this is Treason; for otherwise she should have been hanged, 12 Book of Affize, 30.

A Woman shall be burnt for Treason, as for killing her husband, & hanged for Felony, *Britton*, fol. 16. 1 R. 3. fol. 4.

Sorcerers attaint, were burnt; *Britton*, fol. 16.

Counterfeiting the Kings Seal, or Money, was petty Treason, and Charter of Pardon in all Felonies would serve in petty Treason, for it is Felony, *St. msf.* fol. 2. but now by

by the Statute of 25 of Ed. 3. chap. 2. of Treason, it is made high Treason.

The second Branch in the Charge is Felony, and for that some thing is to be said, what are Felonies by the Common-Law; and what not.

IF one shoot at Butts, and kill a man by swarving of his hand, it is no Felony for which he shall die; the same Law of ryling a house, and a stone falleth and killeth one; but if he hurt one, trespass lyeth, 22 H. 7. 29.

If one shoot at Pricks, and his hand swarve, and he kill one, it is no Felony for which he shall dye; and for that which is not voluntary, he shall have a Pardon of course, but if he hurt one, it is a trespass, though it be against his will: and so it is, where one cuts a Tree upon his own Land, and that falleth upon anothers Land against his will, it is a trespassse, 6 Ed. 4. fol. 7.

One cuts a Purse with three shillings in the same, and loseth his right Thomb, and so it is inquirable in Leet as Trespassse, and not as Felony now by the Statute, 10 H. 3. Tir. 434.

If one feloniously in the night burn a Barn adjoyning to a house, it is Felony, 11 H. 7. fol. 1.

To play at Sword and Buckler together, and one killeth the other, it is Felony: Otherwise it is, if they play together by the Commandment of the King, and one kill the other, 11 H. 7. fol. 23.

If one resist a Felon which would rob him, and kill the Felon in resisting him, it is no felony, and he need no Charter of Pardon, 22 Assise, 55.

If a Thief kill a Merchant, and his servant in pursuing hastily the Thief, kill him, it is no Felony in the Servant, 21 H. 7. fol. 16. Assise, 33.

If one be present when one is murdered, if he do not strike nor aid him, nor consent, nor cause him to do it, he shall not be indicted; contrary, if he be any of those 14 H. 7. fol. 3.

If divers are present when a man is killed, and one of them killed him, the others are Principals, if they come for the same cause, 21 Ed. 4. fol. 84. In the time of H. 8.

Tit. 351. A man bound to keep the Peace, procures another to break it; this is the forfeiture of his Recognizance.

If one be present and move one to kill another, which is done it is felony in him, though he strike not, 13 H. 7. fol. 10. the same, 4 H. 7. fol. 18.

An Infant within the age of ten and twelve years killeth one, and was hanged, 3 H. 7. fol. 13.

Felony is not but where a thing is taken with a Felonious intent, that is, That is so privily, that he intends that he from whom it is taken shall not know, 21 H. 7. fol. 15.

If one take his own goods from him that hath the keeping of them privily, and charge his Bayliff, that is felony in taking his own goods, 5 H. 7. fol. 17.

Taking of Treasure trove or wreck with a felonious intent, is no felony, 22 Book of Ass. 99.

Taking of Charters feloniously in a box concerning Land, is no felony, 10 Ed. 4. fol. 16.

If my Butler steal my Plate in my house, it is in my possession, and it seems is felony, 3 H. 7. fol. 12. The same Law, where my Shepherd steals my Sheep, 22 H. 7. fol. 15. 12 H. 8. fol. 3. If I deliver my Butler my Plate, it is said, it is no Felony, and taking of that is no Felony; this is where they are not delivered.

It was held by all, besides *Needham*, That if a Carrier with a Bail, &c. or a Pack to carry, and breaks that, and takes the Goods out, it is Felony; for the Goods were not delivered, but the Pack. The same Law, if a Tavern Cup be delivered to drink, and be taken away; it is felony, for it is in the possession of the Master. And so it is of a horse in the Stable of his Master, and a Horse-keeper taketh him: But otherwise it is, where he delivers him to ride: Or Plate delivered to your Butler; for this taking is not by force and arms, 13 Ed. 4. fol. 9.

A woman shall not be arraigned for stealing her husband's goods, abridged Book of Ass. fol. 71.

Taking of Pigeons, or Fish in their Rovings abroad, is no Felony: Otherwise it is, out of a House or a Trunk; for there it is felony, 22 Book of Ass. 98.

Taking of Pigeons or other Beasts wilde in their wildness, is no felony, 12 H. 8. fol. 4. by Br. 22. Book of Assises, 95.

Taking

Felony.

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Taking of young Doves in their Nests in a house is Felony; and so it is of Pikes out of a Trunck: contrary, out of a River. Taking young Goshawks in a Park is Felony: Otherwise it is, where they are old Goshawks, 18 Ed. fol. 8.

18 H. 8.
fol. 2. contrary.

Cutting of Trees is no Felony: Otherwise it is, if they were felled, and after carried away with Felonious Intent, 22 Book of Assises, 12. and 12 Edw. 3. Coram. 119.

Taking of Apples out of an Orchard growing upon the Tree, or cutting Trees, or Corn growing, though they be taken with a felonious intent, is not Felony; for that they are parcel of the Freehold: But common breakers of Orchards, and common Trespassors are inquirable in Leet, as intend, 18 H. 8. fol. 2.

Robbery is but from the person of one, 31 H. 6. f. 16.

Robbery if it do not amount to two pence, is Felony, for which he shall be hanged, 22 Book of Ass. 55.

Burglary of a house is, though he carry away nothing; the same Law of Robbery, which is of his person; though it be to the value of a penny; but it is no Felony that one shall be hanged, unless to the value of twelve pence, 22 Book of Ass. 39.

It is Burglary, that he broke his house to kill him, though he did not kill him, 13 H. 4. fol. 40.

One intended to commit Burglary, and was kindred, yet hanged, 27 Ass. 28.

It is no Felony if one intend to rob one; and doth not, but is kindred; but it is Treason if he intend that to the King, and do not the act, 13 H. 8. fol. 13.

A Boy would have carried out the Goods of his Master, and came to the Bed of his Master sleeping, and cut him in the throat, and he cried out, and his Neighbours came in and took the Boy, and he was hanged, 15 Ed. 3. Coroner, 383.

Burglars are those which break Houses or Churches, and though that they carry out nothing, they shall be hanged. Abridgment of the Book of Assises, 75.

Note, That Presentments of Felonies at the Common-Law, are presentable before the Steward in Leet, as appears by 22 Ed. 8. fol. 19. And Petty Treason is Felony, as it appears by Stat. fol. 2.

Tit. 351. A man bound to keep the Peace, procures another to break it; this is the forfeiture of his Recognizance.

If one be present and move one to kill another, which is done if it is felony in him, though he strike not, 13 H. 7. fol. 10. the same, 4 H. 7. fol. 18.

An Infant within the age of ten and twelve years kill-eth one, and was hanged, 3 H. 7. fol. 13.

Felony is not but where a thing is taken with a Felonious intent, that is, That is so privily, that he intends that he from whom it is taken shall not know, 21 H. 7. fol. 15.

If one take his own goods from him that hath the keeping of them privily, and charge his Bayliff; that is felony in taking his own goods, 5 H. 7. fol. 17.

Taking of Treasure trove or wreck with a felonious intent, is no felony, 22 *Book of Ass.* 99.

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If my Butler steal my Plate in my house, it is in my possession, and it seems is felony, 3 H. 7. fol. 12. The same Law, where my Shepherd steals my Sheep, 22 H. 7. fol. 15. 12 H. 8. fol. 3. If I deliver my Butler my Plate, it is said, it is no Felony, and taking of that is no Felony; this is where they are not delivered.

It was held by all, besides *Needham*, That if a Carrier hath a Bail, &c. or a Pack to carry, and breaks that, and takes the Goods out, it is Felony; for the Goods were not delivered, but the Pack. The same Law, if a Tavern Cup be delivered to drink, and be taken away; it is felony, for it is in the possession of the Master. And so it is of a horse in the Stable of his Master, and a Horse-keeper taketh him: But otherwise it is, where he delivers him to ride: Or Plate delivered to your Butler; for this taking is not by force and arms, 13 Ed. 4. fol. 9.

A woman shall not be arraigned for stealing her husband's goods, abridged *Book of Ass.* fol. 71.

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Taking of Pigeons or other Beasts wilde in their wildness, is no felony, 12 H. 8. fol. 4. by Br. 22. *Book of Asses*, 95.

Taking

Taking of young Doves in their Nests in a house is Felony; and so it is of Pikes out of a Trunck: contrary, out of a River. Taking young Goshawks in a Park is Felony: Otherwise it is, where they are old Goshawks; 18 Ed. 4. fol. 8. 18 H. 8. fol. 2. contrary.

Cutting of Trees is no Felony: Otherwise it is, if they were felled, and after carried away with Felonious Intent, 22 Book of Assises, 22. and 12 Edw. 3. Coron. 119.

Taking of Apples out of an Orchard growing upon the Tree, or cutting Trees, or Corn growing, though they be taken with a felonious intent, is not Felony; for that they are parcel of the Freehold: But common breakers of Orchards, and common Trespassors are inquirable in Leet, as I intend, 18 H. 8. fol. 2.

Robbery is but from the person of one, 31 H. 6. f. 18.

Robbery if it do not amount to two pence, is Felony, for which he shall be hanged, 22 Book of Ass. 55.

Burglary of a house is, though he carry away nothing; the same Law of Robbery, which is of his person; though it be to the value of a penny; but it is no Felony that one shall be hanged, unless to the value of twelve pence, 22 Book of Ass. 39.

It is Burglary, that he broke his house to kill him, though he did not kill him, 13 H. 4. fol. 20.

One intended to commit Burglary, and was hindred, yet hanged, 27 Ass. 28.

It is no Felony if one intend to rob one; and doth not, but is hindred; but it is Treason if he intend that to the King, and do not the act, 13 H. 8. fol. 13.

A Boy would have carried out the Goods of h's Master, and came to the Bed of his Master sleeping, and cut him in the throat, and he cried out; and his Neighbours came in and took the Boy, and he was hanged, 15 Ed. 2. Coroner, 383.

Burglars are those which break Houses or Churches, and though that they carry out nothing, they shall be hanged. Abridgment of the Book of Assises, 75.

Note, That Presentments of Felonies at the Common-Law, are presentable before the Steward in Leet, as appears by 22 Ed. 8. fol. 19. And Petty Treason is Felony, as it appears by Stat. fol. 2.

Appeal of Robbery, the Defendant renders to wage battail, and was afterward outed of that, for that that he was Indicted before *JOHN VERNY* Steward in Leer, and for that he did not shew to whom he was Steward, and in what place, it was naught; otherwise, it had been good. By this it appears, that presentment of that may be before the Steward. *Stamford, fol. 2.* Charter of Pardon of all Felonies serves in petty Treason, for it is Felony, and for that also inquirable in Leer as Felony, 22 Ed. 4. fol. 19.

3 H. 7. fol. 23. Sir *Humphrey Stafford* shewed, that he had matter in Law to plead to an Indictment, as Sanctuary, and prayed Council, and had Council upon that shewed in Felony or Treason.

3 H. 7. fol. 1. Infant of tender age, or one out of his wits killeth one, he shall not be hanged, 21 H. 7. fol. 31.

3 H. 7. fol. 1. If the principal take Clergy, being arraigned or indicted, it seemeth that the accessory shall go quit and clear if he have pardon: Contrary, 13 E. 4. f. 3. upon acknowledging of Felony.

3 H. 7. fol. 1. One of the age of nine years which had discretion to excuse himself, was hanged for murdering of another Infant.

3 H. 7. fol. 2. It seemeth, where one challengeth above the number of thirty six upon one Indictment, he shall be put to Pennance; and where it is in Appeal, hanged.

22 H. 8. chap. 14. No person arraigned for petty Treason, Murther, or Felony, shall be admitted to any peremptory challenge above the number of twenty.

4 H. 7. fol. 2. One arraigned, and found it was in defending himself, and had a Pardon of Grace.

14 H. 7. fol. 2. Where one indicted before a Coroner, is afterwards acquit, it shall be inquired who killed him, 11 H. 4. fol. 91. the same.

11 H. 7. fol. 19. If a married Woman commit Felony, her Land is forfeited forthwith, unless that her Husband be intituled to be Tenant by the Curtesie.

21 H. 7. fol. 30. Clerks convict or attain, are not out of the Law, as Aliens are.

1 Hen. 7. fol. 6. Rescuing a Felon, is Felony by the Common-

Common-Law, as Breakers of Prison, is by the Statute.

4 Ed. 4. fol. 10. One Indicted of Murther such a day, and an Appeal sued supposing the Murther another day, yet good, and shall be all one, for the day is not material; and after, the parties in the Appeal agreed, and the Plaintiff is non-suited, he shall be arraigned at the Kings Suit.

21 H. 7. fol. 29. Where one shoots at pricks, and killeth a man by the swarving of his hand, it is no felony that he ought to die.

9 Ed. 4. fol. 2. Defendant in Appeal of Felony, shall have Counsel but not an Indictment, unless he have matter in Law to plead.

9 Ed. 4. fol. 27. Indictment, That Alice S. he took feloniously, and knew her carnally against her will, but feloniously ravished her; an Indictment of Murther, that of malice prepenseed, he killed him, is not good, but *Murdravit*; *vid.* 1 H. 4. 1.

Bracton saith, If there be any that striketh a woman being with child, or gives her poyson by which he maketh an abortive, or a child now formed or having life, he committeth Man-slaughter, 3 Book of Ass. 4. or where one beateth a Woman with child, which indeed was born dead, it is no Felony, 22 Book of Assises, 94.

Stamford 22. It is requisite that, the thing slain be in *Rerum natura*; and for that to kill an Infant in his mothers belly, is no felony, *Stamford* 16.

22 Book of Assises, 71. Two fight together, and one cometh to part them, and is slain; it is Felony.

26 Book of Assises, 22. A Felon in robbing of a house is slain, it is no felony in killing.

Stam. fol. 25. That cannot be felony to steal wilde Beasts found in their wilderness, nor for Doves being out of their Dove-coat, nor fishes taken in the River, for such stealing is not the taking of anothers goods, but of a thing which none hath property in.

But otherwise it is, if he break the Pigeon-house, and steal the young Pigeons which cannot go nor flie, for that is Felony. The same Law of taking young Goshawks bred in my Park.

18 Hen. 8. fol. 2. By *Fitzh.* and *Englefield*, taking of young

young Pigeons in a Dove-house, is not Felony. *Quere*, for they are of a wilde nature.

22 *Book of Affixes*, 3. One killeth one outlawed of Felony; by *Sercoop*, It is no Felony; but by *Stamf.* Otherwise it is where he is attaint by Verdict.

35 *Hen. 6. fol. 68.* A Husband attaint of Felony is slain, his Wife shall have an appeal, but not his Heir, for there is no corruption of blood between the husband and his wife.

34 *Hen. 6. fol. 3.* If a Felon read, and the Ordinary refuse him, the Prisoner shall be spared, and the Ordinary shall be fined: And if a Felon once fail to read, yet the Justices may spare him, and make him try to read again. And it's said there, That he shall have his Clergy under the Gallows: But inquire that. *Stamford* saith, Burglary may be in the day, as well as the night; but all Indictments are (by night,) and for that, *Quere*, *Tit. Clergy plac. 12.* He which breaketh a house by day or night, any person being in that, and by that put in fear, or robb'd of any thing; he shall not have his Clergy, *Stamford, 129.*

Forfeiture.

And for that, you ought to inquire, what Lands and Goods those attaint of Felony have, it is now to see what the King shall have, and what the Lord, by attainder of one in Felony; and what not.

WE shall not keep the Lands of those which are convicted of Felony, but for a year and a day, and then the Lands shall be delivered to the Lord of the Fee, *Magna Charta, chap. 22. See Stamford, 190.*

If the Lord enter after the year and day, where he ought to have a Writ to put him in, the King shall re-seise, § E. 2. *Tit. Trespasts, 48.*

The King shall have all Chattels of Felons condemned, and Fugitives; and if they have a Freehold, then that forthwith shall be taken into the Kings hands, and the King

King shall have all the profits by a year and a day. And that the Tenement shall be wasted and destroyed, &c. and after the year and day, it shall be given to the chief Lords, Prerogative, chap. 16. *Rastall*, 5.

Note, That a man shall not forfeit his Lands in no case but where Judgment is given, and that is in three manners; that is to say, where one is outlawed of Felony, or abjures, or is hanged; for they make but three manner of Writs of Escheat, that is, for which he is Outlawed, for which abjured, and for which he is hanged; and for that it is said, If one rise against the King and is slain, that he shall not forfeit his Lands until he be afterwards attaint by Parliament, as in use, 7 *Hea. 4. fol. 33.* the same, 7 *H. 4. fol. 48.*

See *Stamford*, fol. 49. The King shall have year day and Waste, and Chartels forfeited.

Fitzh. 144. It seemeth that the King shall have year day and waste, where one is convict of Felony, and that is the next years profit; for if one taketh the profits that year and day, the Lord shall have a Writ to the Sheriff to deliver him possession, and he which hath taken the profits shall answer to the King for that.

Fitzh. 144. N. The King shall have the Escheat of Tenements in Cities and Boroughs, which are held of him in Fee-farm.

Fitzh. 6. B. The King as it appears by the Register, shall have a Writ of Escheat returned into the Kings-Bench; for the King may sue in what Court he will.

31 *Ed. 1. tit. Discent 17. f.* If the Son and Heir of A. be Outlawed in the time of his Father of Felony, and after he purchase his Charter of Pardon in the life time of his Father, and after the Father dies, he shall not have Lands descended from his Father, but the Lord of whom they are held by Escheat.

9 *H. 5. fol. 9.* the same, 1 *Ed. 1. tit. Discent 19.* the blood is corrupt, which cannot take by descent.

16 *Of the Book of Assizes, 2.* If the Son be attainted of Felony in the life-time of his Father, and hanged, his Sister shall have the Land by descent from the Father, and it shall not Escheat.

46 *Ed. 3. Tit. Discent 6.* If the Father have a Son and a Daughter, and the Son be attaint of Felony in the life-

time of his Father, and dieth, there the daughter shall have the Land; and if he survive the Father, then the Lord by escheat, 8 Ed. 1. tit. *Affise* 421. 49 *Book of Aff.* 4.

3 *Book of Affise*, Where the Tenant grants Rent-charge out of his Land, and after that escheats, the Lord shall hold this charge; but otherwise it is, where a Tenant which holds of the King, chargeth and dieth without heir, 4 Ed. 4. fol. 2. If that be found by Office, yet it cannot be.

Natura brevium, 103. In a Writ of Escheat it is no Plea, that he died not seised; but it is a good Plea, that he did not die his Tenant.

Fitzh. 144. C. If the Tenant be disseised, and after dieth without heir, it seemeth the Lord shall have a Writ of Escheat, for that, that his Tenant died in his Homage, 2 H. 4. fol. 9. the same.

Fitzh. 144. If a man be beheaded for Felony, or dye after Judgment, before he be put in execution by the Officer; yet the Writ shall say, For which he was hanged, Nat. Brev. fol. 104. the same.

11 H. 4. fol. 16. One may have Escheat and ward, before he be seised of the Services. Littleton 106. If a Signiory be granted by fine.

See 2 and 3 Ed. 6. chap. 8. Where one hath a Rent, &c. the King is intituled to the Land by attainder, and that is not found in the Office; yet he himself shall have his Rent by the Statute.

And it is to see now, where a forfeiture shall be of Goods only, and not of Lands; and where not.

One indicted, that he killeth one (in defending himself) by *Fayfax* he shall be arraigned, and shall lose his goods, 21 Ed. 3. fol. 18. and shall not forfeit his Lands, 4 H. 7. fol. 2. fol. 18.

Where one killeth one (in defending himself) or by mischance, he shall forfeit his Goods, and not his Lands, *Stamford*, fol. 45.

If one kill another by misfortune, he shall forfeit his Goods, and it behoveth that he have his pardon of Grace, *Stamford*, fol. 185. the same, 26 H. 6. fol. 6. the same, and he shall not forfeit his Lands, 2 H. 4. fol. 20.

One arraigned, pleads, Not Guilty; and it was found, that the

the dead struck the other to the ground, and for haste fell upon the blade of him that lay upon the ground; he lying upon the ground shall not forfeit his Goods: but if it were found that he kills him (in defending himself), it is otherwise, 44 Ed. 3. fol. 44.

49 Ed. 3. fol. 5. Where a man is indebted to a man, attainted by specialty, the King shall have it: Contrarily, if it be without that specialty; for the Debtor may wage his Law against him which is attainted; contrary, against the King; but in the Exchequer, it was held, That debt to be forfeit to the King, 16 Ed. 4. fol. 4.

A man cannot wage his Law against the King, 49 Ed. 3. fol. 1. *Stamford*, 183. See Forfeiture, upon he made his flight; and fol. 184. Upon an Exigent awarded, and fol. 185. Upon a Clerk convict; and fol. 178. Of Lands, and of a thing in action, and so further of Forfeiture.

Clerk convict shall forfeit all his Goods, but not his Lands; but the Clerk attaint shall forfeit his Lands, 40 Ed. 3. fol. 42. *Fitzh.* fol. 66. year, 20 Ed. 4. fol. 5.

Clerk convict shall forfeit his Goods, notwithstanding that after he makes his purgation, which now is not made by the Statute of 18 Ed. 2. chap. 7. And then he shall forfeit the issues of his Lands, till he hath made his purgation, 18 Ed. 2. Forfeiture 34 and *Stamford*, fol. 185.

A Clerk convict is not out of the Law, as an Alien is; for his heir shall inherit his Lands after his death, 3 H. 7. fol. 12. and 21 H. 7. fol. 31.

A Woman out of her wits killeth her Husband, she shall forfeit nothing, *Stamford*, fol. 45. Where a man distracted, kills one, he shall forfeit nothing, 3 Ed. 3. *Forfeiture*, 25.

Executors out-lawed, shall not forfeit the Goods, which they have as Executors, nor by attainder of Felony, 32 H. 6. fol. 34.

By award of exigent in Felony, though he be acquitted afterwards, his Goods are forfeited, 44 Ed. 3. fol. 17. and *Stamf.* fol. 184. D. 22 *Book of Ass.* 81.

By award of exigent, Goods and Profits of his Lands are forfeited, if the exigent be not erroneously awarded. *Stamford*, fol. 47.

If one be indicted upon the view of the Body, before the Coroner of death, all his Goods are Forfeited, though that

that he be acquitted afterwards, *Stamford, fol. 35.* See 5 H. 4. 13. H. 4. *fol. 15.*

If a man be convict of Heresy, and be delivered to the Lay-power, his Goods are Forfeited, though that he be not put in execution; but his Lands he shall not Forfeit, unless he be put to death, *Doctor and Student, fol. 14.*

One killeth himself, he shall Forfeit his Goods, and not his Lands. 3 Ed. 3. Tit. Coron, 201. 8 Ed. 2. Tit. Coron. 420.

The goods of them which hang themselves are confiscate, 8 Ed. 4. *fol. 4.*

One put to his penance, shall not Forfeit his Lands, but Goods, 14 Ed. 4. *fol. 7.*

For Petty Thievery, one shall Forfeit his Goods, but not his Lands at this day, 8 Ed. 2. Coron. 406. 22 Book of Assises, 41, the same, 27 H. 8. *fol. 27.*

If Tenant in Tail be attaint of Felony or Treason, he shall Forfeit his Goods, but his Issue shall have his Lands: but by the Statute of 5 and 6 Ed. 6. chap. 11. For high Treason, Tenant in Tail shall Forfeit his Lands, 7 H. 4. *fol. 33.*

By outlawry in Debt or Trespass, the outlawed shall forfeit his Goods and not his Lands; but the King shall have only the profit of his Lands, 21 H. 7. *fol. 7.* Yet the party outlawed, may make a feoffment, and it is good, 9 H. 6. *fol. 52. verbatim.*

One killeth a man and flies, therefore his Goods are presently confiscated; and See *Stamford fol. 183.* Upon a making flight, found, though afterwards he be acquitted, he shall Forfeit his Goods, 8 Ed. 2. Coron. 390.

If an accessory before the Felony fly, he shall Forfeit his Goods; but otherwise of him, that is accessory after the Felony, *Stamford, fol. 47.* the same, 4 H. 6. *fol. 19.* Where, in arrest for Felony, one is slain in flying the arrest; he which is slain shall Forfeit his Goods, and yet he was not attaint. *Stamford, fol. 46.*

Lands which a man attaint, hath at the day of the Felony done, are Forfeited, but no Goods but those which he hath at the time of the Judgment.

By an out-lawry in Felony, he shall Forfeit his Chattels; but if one give them before the exigent, they are not Forfeited, 47 Ed. 3. *fol. 24.*

A man attainted for Felony, shall forfeit his Lands, which he hath at the day of the Felony done, otherwise it is of his Good; for if he sell them before the attainder, the sale is good: but note, that they are not given by *Covin* to defraud the Queen; for then the Gift is not good, as I intend, 33 Ed. 3. tit. 30.

To the Goods of one attaint, it shall have relation, but to the Judgment, and Conveyance of them before, is good by *Perkins*, fol. 6.

If one commit Felony, and is attaint; and in the mean time betwixt the Felony made and the attainder, he departs with his Goods, this Gift is good, *Stamford*, fol. 48. the same. *Stamford*, fol. 192.

The Town where the Goods of Felons and Fugitives are, shall answer for them alwayes, and the Sheriff may seise the Goods, but not carry them away till he be attainted, for he shall have them to live upon. *Stamford*, fol. 47.

And that no Sheriff, Bayliff of a Franchise, nor other persons ought to take or seise Goods of any person arrested, and imprisoned, before the same person be convicted or attaint of Felony, according to the Laws, or that the same Goods be otherways Forfeited, upon pain of double value to the party grieved; and note, who is the party grieved, and that is they in Prison, and not out; but he cannot seise his Land, 1 R. 3. chap. 3.

Rastal
Forfeiture
14.

By *Hull*, where a man is indicted of Felony, his Goods shall not be removed out of his house, before he be attainted, for he shall live of his Goods, 7 H. 4. fol. 48. Officer ought not to seise Chattels of a Felon before attainder; but to sequester them, that they shall not be stolen, and to make the party find Surety, that they shall not be conveyed away; and if he do not, to put them into the hands of Neighbours to keep, 43 Ed. 3. fol. 24. See *Stamford* 192. for the time of the Forfeitures Relation.

¶ Now for that, that divers Lords of Leets, have divers Liberties and Priviledges, and some are by the Kings Grant, and some by Prescription, let us see what Liberties and things the Lord may have by the Kings Grant, and what not; and what Liberties and things he may have by Prescription only, but not without shewing a Charter, and what he may. And then who shall have without shewing allowance, and who not.

The

THE Lord cannot have the Goods of Felons but by Charter and Grant of the King, and not by Prescription; but the Lord may have Weif and Stray, by Prescription, 21 H. 7. f. 32.

One cannot prescribe to have the Goods of Felons and Fugitives, and to have that by Prescription, without shewing a Charter; but to have Weif and Stray, and Wreck of the Sea, he may have by Prescription only, 9 H. 7. f. 20. *Abridg. Assises, fol. 78. 2 Ed. 3. Fitzh. Coron 241.*

One may have (n tangthief) that is to say, to have thieves taken within his Lordship, to be adjudged in the Lords Court; and also (out tangthief) that is to say, Thieves of your own Land, taken out of your Land, to be adjudged in your Court by Prescription 46 Ed. 3. f. 16. A man cannot have the Goods of Outlaws, unless it be by Charter, *Abridgment of the Book of Assises, f. 78.*

Your Lord may prescribe to hold plea, and to have that by Prescription only, but you cannot prescribe to have Conuifance of plea by Prescription only, without shewing the Charter of the King, 9 H. 7. f. 10.

One may prescribe to have a Park and a Leet, and that by Prescription only, and may have that without shewing allowance in Eire, 1 H. 4. f. 5.

A man cannot have the Chattels of Fugitives without the Charter of the King, for it is a thing of the Kings Prerogative, 46 Ed. 3. f. 16.

The Abbot of *Westminster* prescribes to have Sanctuary for Felony and Treason, and to hold pleas, and could not, without shewing a Charter dated before memory, to prove the beginning of that; and for that, that this is against common right, he ought also to shew allowance of that after the time of memory: but he may have Weif and Stray, and view of Frank-pledge by Prescription only, and without shewing allowance; but otherwise it is, to have the goods of Felons and Fugitives, 2 Ed. 4. f. 21. & 22.

Note that the things that you may have only by Prescription of common right, you shall have without shewing allowance, and the other things not without shewing allowance.

The allowance which you ought to shew, shall be that which was allowed in the Kings Bench, or in Eire, and not in the Common Bench.

Grant of the King.

61

Ancient Grant of the King shall be taken, as it hath been allowed, as the King hath granted to one his royal Rights, and the King is concluded by the allowance in a *Quo Warranto* in the Kings Bench, and not in the Common Bench, 10 H. 7. fol. 13. & 14.

Charter of H. 2. dated before memory, and allowance of that shewed after memory in the Common Bench, it is not good at this day, unlesse it be in Eire, 21 H. 7. fol. 29.

The Kings Bench is Eire, and more then Eire; for if the Kings Bench cometh into the County where the Commission in Eire is, that shall cease, 27 Assise 1.

Grant of the King.

Where th: King hath granted to you by his Charter (the Goods of Felons, and Fugitives) what things passe by this Charter, followeth.

Allowance in the Common Bench is not good, and allowance shall be within memory, 9 H. 7. fol. 16. 1 H. 7. fol. 23.

In the time of H. 8. Tir. Grants, 364. If the King grant Reversion, and mis-recite the date of the Lease, but recites well the estate, the thing, and the name of the Lessee; it is a good Grant.

8 H. 7. fol. 4. Where the King upon information of the party, grants a Mannor, and recites, That he had it by forfeiture, and hath it not by forfeiture, it is a void Grant, for the King is deceived; So it is said, Where the King grants a Reversion where there is no Reversion, he is deceived, and void.

26 H. 8. fol. 1. The King recites for the good service he hath done in the Wars, he grants, where he was never in the War, it was a good Grant; for the recital is a matter indeed not material.

9 H. 6. fol. 27. Where the King grants upon a Petition for his service, such a Mannor of such a value, where it is of a greater, he is deceived, and it is void.

9 H. 7. fol. 2. If the King makes one a Denizon, and reciteth where he was born in France, where in truth he was born

born in *Spain*, this Grant and making him Denizon is a good Grant, and the recital is not material.

9 H. 7. fol. 2. Diversity where the King of his meer motion, grants and recites, that what he hath granted by his Patent, he ratifies and confirms, the King is estopped to say the contrary, but that he granted and ratified that: but if it were (as I am informed) he is not estopped, and the King is deceived.

37 H. 8. Tit. *Patents* 10. It is said for Law, that false consideration in Letters Patents shal not avoid them; as where the King for ten pounds to him paid, giveth such Land, and the ten pounds consideration is not paid, the Patent is not void. Contrary of a Patent made upon false surmise, as that the Land came to the King upon the Attrainder of J. S. and it is false, the Patent is void.

6 H. 7. fol. 13. If an Office be granted by the King to one for life, and after the King grants that to another, and do not recite the first Grant, the King is deceived, and the second Grant is void.

The King grants to you (the Chattels of Felons and Fugitives, for whatsoever offences) you shall not have the Goods of one that stands dumb, for these are forfeits for contempt, and this Grant shall be taken strictly, because it rusheth upon the Kings Prerogative, 8 H. 4. f. 2.

The King grants to one the Chattels of Felons, and Fugitives, and of whatsoever Offenders, the Grantee shall have the goods of him Attaint for petty Treason, and not for high Treason by these general words (for what Offences soever) 22 Book of Assizes, 40.

If one kill the Kings Ambassador, this is High Treason, and for that he shall not have his goods, but Goods of one Attaint for Petty Treason, by the Grant (of Goods and Chattels of Felons and Fugitives, and for whatsoever Offences) he shall have, for that is Felony, 22 Book of Assize 49.

Where there is a Grant to you by a common person (all his Goods); a Lease for years, nor a Ward pass not, for (Goods) are Moveables, alive and dead, and not Chattels, 4 Ed. 6. Book Grants 51.

And for that the King Grants (all the Goods of Felons) you shall not have a Lease for years of one Attaint, for it is a Chattel real, Brook, Done, 438.

Plowden fol. 424. Where one grants all his Lands and Tenements to one, there a Lease for years may pass; where the King grants (all the Goods and Chattels of Felons of his men) that is but his own Tenants, unless it be an ancient Grant, and the Grant put in use of other Tenants also, 40 *Book of Assises* 41.

If one grant all his goods, as well living as dead, a Rent-charge, which the Grantor hath for years, passeth by this Grant, 39 H. 6. f. 37.

Where Chattels are granted to one, by this he hath as well Chattels, moveables as not moveables; for a Lease for years is within this word Chattels, as it appeareth by *Bracton, Stamford, fol. 44. Prerogative.*

Where Chattels are granted to one, he shall have the Corn of a Felon, growing upon the Land of a Felon, at the time of the Forfeiture, and right of Actions to the Goods, as where Goods by wrong are taken from a Felon, and where one is indebted to a Felon by Obligation, or is accountable to a Felon for any Receipts, *Stamford, 45. Prerogative.*

The King may have Debt due by Obligation to a Felon, and not which is due by Contract, 16 Ed. 4. f. 4.

Chattells.

IF a Disseisor sow the Land, and sever that before the Disseisee re-enter, the Disseisee cannot take the Corn, for they are Chattels, and come by his industry; but otherwise it is, of Trees cut by the Disseisor, and made in Faggots, or Grass made in Hay, which come by the soil, 5 H. 7. fol. 16. and 2 H. 7. fol. 2. the same.

39 Ed. 3. The Writ is of Goods and Chattels, and the Count of Corn, and ten pounds in money, and for that that money is not Goods and Chattels, he abridges that.

7 Ed. 6. *Tit. Grants, 155.* A man grants all his Lands and Tenements in D. a Lease for years doth not pass, that is, where he hath Lands in Fee in D. and also a Lease there.

37 H. 8. *Done 41.* It is said for Law, that if a man give all his Lands and Tenements in D. by this a Lease for years doth not pass, for (Lands and Tenements) shall be intended Free-hold at the least.

10 *Ed. 4. fol. 1.* If an Executor give all his Goods and Chattels, the Goods of the Testator do not pass, and clearly the Giver shall not Forfeit them.

28 *H. 8. fol. 4.* by Ellior, If a man give all his Goods and Chattels, Hawks and Hounds do not pass, 18 *Ed. 4. fol. 14.*

For that they are of a wilde Nature.

9 *H. 7. Tit. Grants, Brook, 87.* If a man hath Lands in Lease, and is seised of other in Fee, and make a Feoffment of them both, and Livery only in the Land in Fee, the Land for years doth not pass.

8 *Ed. 4. fol. 4.* By Pigot. Where a man gives to me a deed of Feoffment, when I have not the Land, that is but a chattel in me.

39 *Ed. 3. Tit. Charters, 6.* A man granteth the next Advowson to J. S. and his heirs, it is but a Chattel; for it is but for one turn, the same Law for a Lease to him and his Heirs for twenty years, 136. the same. *Book of Assises, 22.*

21 *H. 7. fol. 26.* A man seised in Fee, maketh a Furnace of Lead in the midst of his House, which was fixed to the Walls, and dyed, the heirs shall have that, and not the Executors; for it is fixed to the Free-hold, and not a Chattel. The same Law is of Fats fixed in a Brew-house or Dy-house: and at this day is the like of Glass, though there it was held the contrary; but it seemeth where the Termor fixeth such things, he may take it within the Term, but after the Term not; and the Heir shall have Table dormants, and those things which cannot be attached in Assise.

Stamford, 45. Chattels are as well Chattels moveable, as not moveables; and Leases and Chattels are the Corn growing, and right of Action; and an Obligation made to a Felon, and mony out of a Bag, and Corn out of a Sack, are Chattels.

10 *Ed. 4. fol. 1.* It seemeth where one gives all his Goods and Chattels, the Chattels of the Giver doth not pass. See 4 *H. 7. fol. 12.*

38 *Ed. 3. Tit. Charters, 24.* It seemeth that Charters are but Chattels.

8 *Ed. 4. fol. 4.* If one give to be a Deed of Feoffment, whereof I have not the Land, this is but a Chattel in me.

Chattels.

21 Ed. 4. fol. 80. Writings may be laid to pawn for money borrowed, by which it seems that Writings are Chattels in divers cases.

37 Affise 11. A woman hath execution by Statute-Marchant of Land, and takes a husband; this is a Chattel, and for that the husband may give it.

24 Ed. 3. Tit. Charters 5. by Thorp. The Escheator may seise the Ward, though there be no Office found; for it is a Chattel, and vested in the King without an Office.

4 H. 7. fol. 10. Where Tenant in Tail discontinues and dies, the Deed in Tail belongs to the Heir, before he hath re-continued his Estate in the Land; and it is no chattel, but an Inheritance; for if one give all his Goods and Chattels; he shall not have such Deeds.

Now let us see, which not using of Priviledg and Liberty, is the cause of seising of it; and which not: I intend not using of liberty, which is for the benefit of the party, this is no cause of seising; but where it is for the Commonwealth, not using, is a cause of seising; and misusing, is a cause of seising for ever.

IF one have Liberties, and do not use them within memory, all is gone; 14 H. 7. fol. 1.

Not using of the Office of Clerk of the Market, is cause of seising; for that is for the Commonwealth, 2 H. 7. fol. 11.

By Billing, by misusing, and not using also of a Market, shall be seised, 2 H. 7. fol. 11. and 15 Ed. 4. fol. 7.

Where the Abbot of S. Albans had a Goal by Franchise, and would not be at costs with the Justices of the Goal-delivery to make delivery of Prisoners, and kept them long in Prison, for that it was seised into the Kings hands, 8 H. 4. fol. 17.

If the Lord of the Franchise refuse to do a thing commanded by the Court, as to bring in his Prisoners, it is a forfeiture of his Liberty: contrary, where it is commanded by Process, by *Husey*.

If a Lord refuse to do right, or misuse his Franchise by himself, or by his Bayliff, or Deputy, or do not use his Franchise, that shall be re-seised; and all Lords which have Franchises shall attend upon the Justices of Assize in person, or by their Bailiffs; or otherwise they shall forfeit their Franchises, 20 Ed. 4. fol. 8.

When divers Franchises are granted to a man, one of which depends not upon the other, although he misuse one Franchise, the other shall not for that be seised: But if they depend one upon the other, there all shall be seised, 22 Ass. 34.

Confirmation.

NOte, That there need be no Confirmation of a Charter of grant of Liberties, after the death of every King, as it is used, 1 R. 3. fol. 4. but otherwise it is, of Officers judicial, 33 H. 8. tit. 203. If the King grant the Chattels of Felons to one and dies, there need no Confirmation of that. Otherwise, if there were a Fair or a Market granted, or a Judicial thing, or a Ministerial office granted.

Suit.

Then the next Branch of the Charge is Suitors; and for that let us see who are resident which ought to make Suit at the Leet; and who not.

Resi.

Suit real is at Leet, and this is by reason of their residence, 12 H. 7. fol. 17.

If one carry my Male, and sometimes be within the View, and otherwhiles not, yet he is resident, 41 E. 9. fol. 27.

Fitzh.

Fitzh. 160. B. A man which is not resident, but hath Lands within the Leet, shall not be distrained, (but where he is dwelling) to make sure to the Leet; *Marlebridg. chap. 18.* Who have Tenements in divers Hundreds, have no necessity to come to these Turns, unless in the Bailiwicks where they are dwelling.

Where the Master is resident, there also his Servant. And every one is in some Leet, as well the Master as the Servant, *2 H. 4. fol. 17.*

Men of Religion, Clerks, Knights, nor Women, shall not be Deciners, *Fitzh. fol. 160. C. Register, fol. 181. Britton, fol. 19.*

It is provided, That they have no need to come, Arch-*Rast.* Bishops, Bishops, Abbots, Priors, Earls, Barons, nor any *County, 2.* Religious men or women, *Marlbridge, chap. 10.*

A man shall not make Suit twice to two Leets of several men for his residency, but one time to one, and another day to another he may; but one may come twice to the Leet of one person, and yet may be charged to come to the Turn of the Sheriff, *18 H. 6. fol. 13.*

Every man ought to be attendant to a view of Frankpledge, *21 Ed. 3. fol. 12.*

For that the not scowring of Ditches adjoyning to High-Wayes and Bridges, and also other annoyances in Wayes are presentable in Leets, and is another Branch of the Charge: Let us see how they shall be done; and what by the Common-Law; and what now by the Statutes.

Wayes.

IF a man have Land adjoyning to the Kings High-way, he is charged of common right to cleanse the Ditches *8 H. 7. fol. 6.* without any prescription; but if he be not next adjoyning, it is otherwise, for there he is not chargeable without prescription; but it is said, That he whose Land is next adjoyning to a Bridge, is not held of common right to repair *Purpre-* the Bridge, though the Bridge have been there time out *stures.* of mind, unless he have that made by prescription.

Rastal.
Bank 12.]
Bridges.
Rastal,
Bridges, 8.

Magna Charta, chap. 15. No Town nor Free-man shall be distrained to make Bridges, unless that of old they use to make them in the time of King H. our Grandfather; the Statute of 22 H. 8. chap. 5. gives power to the Justices of Assize to determine the making of Bridges, where it cannot be held and proved what person certain ought of right to make such decayed Bridges, and what shall be made by the Inhabitants, or riding where such decayed Bridges are; by which it appears, that he which hath Land adjoining to a Bridge, is not chargeable to make the Bridge, unless it be by Prescription.

2 Ed. 4.
fol. 9.

Way:

By *Moyle*, If any encroachings be made over the Kings Way, as by a Ditch, House, or Wall, it shall be punished by Presentment in the Leet: And I collect upon the Opinion of this Book, and upon 8 Ed. 4. fol. 9. And upon 27 H. 6. fol. 9. and upon 6 Ed. 3. Way 2. Where a Lord of a Mannor hath Land upon both parts of a High-way, that he shall have the Trees growing in the High-way, and also where a Way is over a waste of the Lords; but where a Freeholder hath Land of each part of the High-way, he shall have no Trees growing in the High-way; and where he hath Land joyning but upon one part of the Way, he shall have no Trees growing upon that half of the Way, 2 Ed. 4. f. 9. But *Britto*, fol. 111. saith, That a Freeholder shall have Trees, if it be not in the common High-way.

Rof. High-
ways, 60.

He which doth not scowr his Ditches adjoining to a high-way, ought to forfeit for every rod not made, 12. pence every time, 18 Eliz. chap. 10. And before that, by the Common-Law, he which had Land adjoining to the high-way, ought to scour his ditches adjoining to the high-way.

Ways.

It is provided, That the hedges, fences and ditches next to either part of the high-ways, or common Travelling ways, shall be from time to time scoured and repaired, and that all Bushes and Trees in them growing shall be cut by the owners: And by 8 Eliz. chap. 10. for not doing of that, forfeit 10 shillings; and these points of the said two Statutes are inquirable in a Leet, 5 Eliz. cap. 13.

Commission may be awarded for not repairing Bridges, *Fitzb.* 113. A. and 117. D.

By

By *Shelly*, If one do not cleanse his Ditch, but suffer that to drown the high-way, he shall be amerced, 12 Hen. 8. fol. 17.

And note, that injuries made in the high-way, are presentable in Leet, as it follows, but not injuries in private Wayes; but the party grieved shall have an Assise of Nufance, or an action upon the cause, if he have no Free-hold, and yet it is used to inquire if one stop a private Way; but it is to no purpose, if it be not for evidence in an Assise of Nufance, as an Inquest of Office: but it seemeth to be good between Copyholders which cannot have an Assise of Nufance, nor an Action upon the Case for stopping a Way, and the pain upon that is good to be assessed.

By *Fairfax*, A Leet hath power to inquire of common annoyances, but not of particular; as if one stop my private Way, or break my Close, that is not inquirable, 4. 3. fol. 1.

If a high-way be not repaired, so that I be damnified by miring my Horse; I shall not have an Action for that, but a Presentment shall be of that in the Leet. See 27 H. 8. fol. 27. and 5 E. 4. fol. 3.

If one sow my private way to my Meadow, I shall have an Assise of Nufance; and it is not presentable in Leet, and where he streightens it, action upon the case lieth, 33 H. 9. fol. 29. The same Law of my way stoppt to the Church, 6 E. 4. fol. 37. If one stop the water running to my Mill, I shall have an Assise of Nufance, and it is not presentable in Leet, 2 H. 4. fol. 22.

The Free-hold of a High-way is to the lord, and passage for the people is to the King, and punishment for annoyance of that may be to the Leet, 6 Ed. 3. way, 2 and 3 Ed. 4. fol. 9.

In a high-way, the King hath but passage for him and his People; but the Free hold, and all the Profits are to the Lord of the soil, as Trees, &c. The King shall punish annoyance made there, and the Lord shall have an Action for digging the Land there, 27 H. 6. fol. 9. and 8 Ed. 4. fol. 9.

He which hath Lands adjoyning to the way, hath the half of the way, unless it be a common High-way; for there it is otherwise, for there it is to the Lord. *Britton*, fol.

Kings high-way is that which leadeth from Town to Town; and common Way is that, which leadeth from a Town to the Field to their Lands, 3 Ed. 3. *Statham, Tit. Wayes.*

It seemeth there are Royal wayes or high-wayes, common wayes, and private wayes; and to stop private ways an Action lies.

Fitzh. 124. If one be disturbed from his Way, he shall have a *Quod permittat*; B. to have a certain way over the Land of the said A. in D. as he ought and was wont.

33 H. 6. fol. 29. It seemeth where my way is straitned or impaired, I shall have an action upon the case; but if it be all stoppt, I shall have an Assise of Nufance: but by Prisot, if the stopping of the way be by the Land Tenant, Assise of Nufance lieth; but if it be by a stranger, an action upon the case lieth: but of a common annoyance that is made in the Royal way, none shall have an action, but present that in a Leet, or and there set a Fine upon him for the King, and by Prisot I shall have an Assise of Nufance, or a *quod permittat* against all the Tenants, though but one of them stop the way.

5 Ed. 4. fol. 3. If a common way be, and is not repaired by him which ought to do it, so that I be in loss by that; I shall not have an action, but by way of presentment in Leet, &c. 27 H. 8. fol. 32. see there.

Fitzh. 184. Assise of Nufance, he stopped the way, or straitned the way in D. to the hurt, &c. it lieth, 48 Ed. 3. fol. 27. *Arctavit viam*, a good form.

11 H. 4. fol. 81. &c. Where one hath a way over a Bridge to his Mannor, which another ought to repair; and he suffers a decay, so that he cannot pass: action upon the case lieth.

Fitzh. 183. Assise of Nufance lieth, where a man hath made an annoyance to my Free-hold, which I have for my life in Tail, or in Fee; and so it followeth, that a Termier for years shall not have an assise, but an action upon the case: See 27 H. 3. tit. Assise 437. If one lett Lands for years, and after an annoyance is made, the Lessor shall have an Assise, and not the Lessee.

11 H. 4. By Hank and Culpepper, If a man hath a Way, unity extincts it, 3 H. 6. fol. 42.

Incidents.

21 Book of Assises 1. Where a way is extinct by unity of possession in the Father; yet it may be afterwards revived by partition upon Composition; for the Composition makes that, and it is called a new way.

5 H. 7. fol. 7. A way appendant cannot be made in gross by Grant; for none may have the Commodity of that, but he which hath the Land to which the Way is appendant; the same Law of Common appendant, but otherwise it is Common appurtenant.

26 H. 8. fol. 4. Appendant cannot be aliened and severed in Drifts and Ways to Closures, yet the Free-holder shall have the Trees; but commonly in high-ways there is some waste, in which the tenants have common of pasture, and the Trees growing there are to the Lord of the Mannor.

17 Ed. 3. fol. 43. Is, that the Free-hold and the Soil of a high street is in the Lord of the Mannor, and the people have nothing there but the passage, and 8 H. 7. fol. 5. by Keble, the Soil and Free-hold in the way is to those which have Land adjoining.

2 Ed. 4. fol. 9. Where there is common way throughout a Field, the Free-hold of the Soil is to the Tenant of the Land adjoining, and not to the King, for he hath but passage for his People.

Incidents.

A Man cannot dispend with a Suit to a Leet, unless by special words, 8 Ed. 2. tit. 28.

2 H. 7. fol. 4. Partition is made of four Mannors, which descend to four Co-parceners, that every one shall have a Mannor, except the Advowson, and by that the Advowson is in gross and severed; and if all die but one, it shall be appendant again.

8 H. 7. fol. 1. By grant of a Hundred, Leet passeth as Incident, for a Hundred cannot be without a Leet; for a Leet is parcel of it; and to a Mannor, a Court Baron is Incident; and to Homage, Fealty; and to a Fair, a Court of Pipowders; and it seems these cannot be severed.

Perk. fol. 2. Common appendant cannot be severed, nor Estovers to be burned in a house, but a Villain regardant may be severed, and an Advowson appendant, and made in grosse; for an Incident inseparable cannot be severed by Grant, as in the case next before, but Incidents separable may be.

40 Edw. 3. fol. 22. Reasonable aid, to make his Son Knight, or to marry his daughter, and relief for soage after the death of his Tenant, cannot be released by general words; therefore release of all actions and demands, besides Fealty and Rent by the Lord to the Tenant, shall not extinct these incidents; the contrary is said, if it be by special words.

10 H. 8. tit. Incidents 34. Court-Baron is so incident to a Mannor, and Court of Pi-powders to a Fair, that they cannot be severed by Grant; for if they grant the Mannor or Fair, they cannot reserve such Courts.

7 Ed. 4. fol. 11. Lord and Tenant, the Lord releaseth to the Tenant the Distress, this is void; for the Distress is Incident, the same of release of Fealty to him which holds by Homage, for Fealty is incident to Homage, and is inseparable.

26 Book of Assises 66. Lord and Tenant by Fealty, Escuage and Rent, and the Lord grants the Rent, this is Rent-seck and severed; for Fealty remains with the Homage, as Incident to it; the same Law where a Rent is incident to a Reversion, and yet these may be severed by special grant, *29 Book of Assises 20.* the same. *Littl. fol. 40.* Where the Tenant holds by Homage, Fealty, and Rent, if the Lord grant the Rent, saving to him the homage; this Rent is Rent-Seck, and severed: the same Law, if he grant the Homage, saving the Rent; and where he holds by Rent and Fealty, and grants the Rent saving the Fealty, or left for life, tending Rent, and grants the Rent saving the Reversion, the Rent is Seck,

Rescous

Rescous and Pound-breach is another breach of the Charge.

HE which distrains Beasts may put them in a close house, if he will give them meat; for the putting into the open Pound, is, that the Owner may give them meat, 33 H. 8. tit. Distress, 66.

If man distrain without cause, the Owner may make Rescous; but if he put them into the pound, he cannot break it, for they are in custody of the Law. See 40 Ed. 3. fol. 33. and Fitzh. fol. 102. E.

It seems, If a Lord distrain where Rent is not behind, the Tenant shall not make Rescous, 4 Ed. 6. Tit. Distress, 74.

If a man distrein wrongfully, the Owner may make Rescous, 5 Ed. 4. fol. 7. by Danby, 39 Ed. 3. Tit. 20.

If Beasts put into the Pound die it is at the loss of the Owner, though he have tendred sufficient mends; for he might have a Replevin, Doctor and Student, fol. 8. 113.

I may impound a dead thing where I please, but if that corrupt by my default, I shall answer for it, 9 Ed. 4. fol. 2.

Fitzh. 102. L. If the Lord do distrain where is no Rent nor Service behind, the Tenant cannot make Rescous.

9 Ed. 3. fol. 35. If a man distrain wrongfully, the owner of the Beasts may make Rescous; but by 4 Ed. 6. it was agreed, If he distrain and impound them, the owner cannot take them out, for they are in custody of the Law, 5 Ed. 4. by Danby the same.

2 H. 4. fol. 18. If a man distrain my Beasts, which escape into his Land out of the great Waste, I may Rescue them; but if I keep them, or put them there; or, by Hawkford, if I have notice that they use to go there; this is no escape, and there I ought not to make Rescous. See 7 H. 7. Tit. 1.

2 H. 4. fol. 24. In Rescous, nothing behind, and also that he was never seised, are good Pleas: Quare.

5 Ed.

5 Ed. 4. fol. 7. Seisin is not traversable in Rescous by Opinion there, 6 Ed. 4 fol. 12. the same, 8 H. 4 fol. 1.

21 H. 4. fol. 40. By the Court, where the Lord comes to distrain, and sees the Beasts, and the Tenant perceiving that, chaseth the Distress out of his Fee, the Lord shall not have a Writ of Rescous, for he hath no possession of the Beasts, but he may follow them, and distrain them; but if they were chased out of his Fee before the Lord see them, there he cannot distrain them, 44 Ed. 3. fol. 20. the same. *Fitzh. N.B. 102. G.*

33 H. 6. fol. 58. A man attacheth a Horse in a Corporate Town, and there he is rescued and chased into another County upon fresh Suit the Officer may take them again.

6 Ed. 4. fol. 12. By *Yelverton*, In Rescous nothing behind is no plea; for if the Lord distrain where no Service is behind, the Tenant is at no mischief, for the Tenant may have a Replevin, and in this Writ recover his damages.

Fitzh. 101. Rescous lyeth where a man distrains for Rent, or for Services, or Damage doing, and those would impound, and another rescues them, and if a Collector, or Sub-Collector distrain for a fifteenth, or a Bayliff, or a Sheriff or other Officer distrain for the King, and rescous is made, they shall have a rescous, and not the King; but if a Bayliff of a Liberty distrain for the King, and rescous is made, the Lord of the Liberty shall have Rescous; and if a Bayliff or Officer of a common person distrain, Rescous is made, he which causeth the Distress to be made shall have Rescous.

39 H. 6. fol. 42. Re-disseisin to Coroners, and one alone maketh a Precept, Rescous upon that is justifiable.

Assaults and Frayes.

For that, that Assaults and Frayes are inquirable, let us see which are punishable in a Leet, and what not.

Assaults are not inquirable and punishable by presentment in Leet, but bloud-shed is, 8 Ed. 4. f. 5.

By *Fairfax*, Leet hath no power to enquire, but of those which

which make common-annoyance at the Common Law; as of Affrayes and blood-shed, but not if one hath broken my Close, or if one hath beaten me, but if any Affray were, so that the Kings people were disturbed, for that is more then particular, 1 R. 3. f. 1.

If one come to make a Booth, and doth it not, and yet one maketh a Fray upon him, and upon him draw blood with his Sword or Dagger, it is punishable by Presentment in Leet, 11 H. 6. fol. 29.

If one assault to beat you, and you fly, and he inclose you, or if you be at Hedg or Ditch, and then you beat him, and wound him, this is not punishable in a Leet, 34 H. 6. f. 8. and 33 H. 6. f. 20.

If J. S. makes an Assault upon a Stranger, and J. D. draws his Sword, and bears and wounds J. S. in defence of the stranger, this is punishable by a Presentment in a Leet. But if a Servant beat and wound one which maketh an assault upon his Master, in defence of his Master, he is not punishable by Presentment in Leet, 12 H. 3. f. 5. and 9 Ed. 4. fol. 51.

If one lay his hands unlawfully upon any, unless that he arrest him, or part two that fight, he is a Trespassor, but that is not punishable by Presentment in Leet, 9 Ed. 3. 4.

If one beat one in defence of his goods, this is not punishable in a Presentment in Leet: Book of Entries, fol. 553. and 19 H. 6. f. 21.

Trespas of Assaults and Frayes.

Trespas by a Chaplain of Grayes-Inn, the Defendant pleads of his own Assault, and it was held; if he upon whom the Assault is made, can escape with his life, it is not lawful for him to beat the other which made the Assault; but it is held, that I ought not to stay till the other hath given me a blow, for peradventure he commeth too short, 2 H. 4. f. 9. 10 Ed. 4. f. 7. Trespas of Grass trod, and threatening of life and member, a man cannot justify the menace of death, and for that, to that he pleads not guilty, 21 H. 6. Tit. 26. the same.

33 H. 6. fol. 20. Trespas of threatening by Prisoner; I cannot threaten one of Life and Member, but if he upon whom the

the Assault is made flie, and the other followeth him so near that he cannot escape, or hath him under him upon the Ground, or hath chased him to a Wall, Hedge, Water, or Ditch, there it is lawful for him to say, If you will not depart, that he to save his life, will kill him.

3 H. 4. fol. 3. Trespas of Assault, Imprisonment and Battery; Defendant pleads to Battery; Not Guilty, and to the Assault, that the Plaintiff came to such a River, where the Defendant had a Mill, and would have stopt the River; and the Defendant took him by the Arm, without that, that he made other Assault, and to the Imprisonment; the Defendant pleads, That the Plaintiff assaulted him, and would have beat him, by which he prayed the Constable to arrest him, and he came in aid of him; Judgment, if Action, and good.

22 H. 6. fol. 48. Trespas of a Servant beaten, and Entry into his House, Year 7 H. 6. Defendant saith, That Year 8 H. 6. he served a *Subpena* upon the Plaintiff, and that the Plaintiff and the Servant took him, and carried him to his House, and there detained him half a day, which is the same Trespas, and to any Trespas before Not guilty, to the Battery of his Servant, which was of his Assault at another day, and to any assault before not guilty.

Bracton saith, He is not worthy of Peace, which will not keep it. *Stamford*, fol. 30. A.

40 Ed. 3. fol. 40. Trespas of Assault and Battery, and found the Assault only, and Plaintiff recover, but shall not have Action of assault only, 42 E. 3. fol. 7. the same, and see 12 Affise 60.

19 Ed. 4. fol. 30. Trespas of Battery; it was held, That if a man will take my Goods, I may lay my hands upon him, and rather beat him then suffer him to carry them away, 26 H. 6. fol. 33. the same, That he may beat one in defence of his Goods,

19 Ed. 4. fol. 189. Trespas of Battery, a man may justify the beating of another in his defence; but by *Catesby* a man cannot beat another in defence of his Son; but a Servant may beat one in defence of his Master or Mistress, 21 H. 7. fol. 39. the same,

Mortmain.

Mortmain is inquirable in a Lect, for that it is for the benefit of the King, and in the Kings Court: what is Mortmain within the Statute; and what not.

W Here one Abbot aliens to another Abbot, or Bishop to another Bishop and his Successor, it is Mortmain, *Fitzh. fol. 222. D. 16 Assise 1.*

Where Land is devised to one, to pay twelve pound to find two Chaplains for ever to sing in the Church of St. Albanes in Woodstreet for ever, if it be behind, that the Chaplain may distrain, that is Mortmain: See 32 Ed. 3. 10. & 40 Assise 29.

J. S. deviseth certain Land to his Executors, that they should provide a fit Chaplain in the Church of D, to celebrate for ever; which Chaplain shall receive yearly out of the aforesaid Lands six Marks, that is no Mortmain, for nothing is devised to the Chaplain, 4 Assise 27. 43 Assise 27.

Four Acres were devised to one in Fee, so that he and his heirs should pay yearly six pound for the maintaining of one Chaplain to celebrate yearly for ever in the Church of S. Leonards in Eastcheap, and that the Rector for the time may levy it for ever, that is Mortmain, 43 Assise, 33.

J. S. deviseth Land and two shillings Rent, for the maintaining of a Chaplain in the Church of D, yearly to celebrate; and I will, That my Executors should ordain the aforesaid Chaplain, and the Executors do nothing, therefore no Mortmain, 43 Assise 34.

If a Villain of a Bishop purchase Lands in Fee, and the Bishop enter without License, it is Mortmain, 41 of Assises, 4 Fitzh. 224. B. 41 Ed. 3. fol. 16.

If a Feoffment be made to the use of a Bishop and his Successors, it is within the Statute, *De religiosis*, and so it is where he takes profits, 8 Ed. 4. f. 18.

A Bishop cannot appropriate an Advowson of which he
is

is seised in Fee without the Kings License, and if he doth, it is Mortmain, Fitzh. 223 H. sec 21 Ed. 3, fol. 5. seemeth contrary.

If one let to a Religious man for a hundred years, and so from a hundred to a hundred, during eight hundred years, this is Mortmain; but it seems that a lease to a Religious man for eighty years, or for a hundred years, is no Mortmain; but in the first case, it is by colour of a Term and Mortmain 29 H. 8. Mortmain 39.

Lease for eighty years to a Abbot, by *Martin* is mortmain, *Quere*, 4 H. 6. f. 9.

The Tenant lets for life to J.S. the remainder to a Religious man and his Successors, the Lord need not so make claim till the Tenant for life be dead; for if he in remainder will wave, this is no Mortmain; for if the Tenant will make a Feoffment in Fee to the use of A. for life, and after to the use of a Religious man and his Successors, that is not mortmain, till the Tenant for life in use dieth, and he in remainder takes the profits, 29 H. 8. Mortmain 37. Lord and Tenant.

Where one gives in mortmain, he ought to have License of the King to do it, and of the chief Lord; otherwise they may enter for mortmain, and before the license there ought to issue out a Writ of (*Ad quod damnum*) to the King, but tis used to omit that, and to have the license without any Writ of (*Ad quod damnum*) Fitzh. 221. K.

Where an Abbot holds of J.S. by five shillings, and J.S. releaseth to the Abbot, this shall go by extinguishment, and for that it is no Mortmain, 22 Ed. 3. fol. 22.

47 Ed. 3. fol. 10. If alienation in Mortmain be, and the Alience is disseised, and the Disseisor died seised, his Heire is in by discent, yet the Lord may enter within the year; for he hath but a title of entry, and cannot have an action; but contrary of him which hath a right of Entry, and may have an action.

29 Ed. 3. fol. 38. Lord and Tenant, the Signiory is granted to A. in Tail, the remainder to B. in Tail, the Tenant alien in Mortmain, the first Tenant in Tail, cannot enter within the year; and after the second Tenant in Tail dye without Issue, and B. in remainder enter within half a year, and held that he could not; for the Tenant in Tail, and he in remainder have but one Signiory, and are but

but one Lord, and both shall have but one year by the Statute.

Fitzh. 223. E. If a man will exchange Land with an Abbot or other body corporate, that is Mortmain, and he ought to have a License.

Fitzh. 222. If an Abbot give Lands to another Abbot or a Corporation, it is Mortmain, and ought to have a License, and (*Ad quod damnum*) shall be sued: And see the (*Ad quod damnum*) 221 R.

48 Ed. 3. fol. 29. Abbot purchase Lands with warranty by License, and is impleaded and voucht, &c. and Judgment is given against the Abbot, and he recovers over in value, it is not Mortmain for the Lands recovered in value, and he ought not to have license of the Lands recovered in value, for the first License serves in that: See 45 Ed. 3. fol. 18. Where an Abbot recovers in value.

9 H. 6. fol. 9. If an Abbot have Rent out of my Land, and I grant to him, that he may distrain for the same rent in other Land, this is no Mortmain, for he hath nothing but ancient Rent; and for that it is no Mortmain.

3 Ed. 4. fol. 14. By *Iacon*, the Statute *de Religiosis*, holds place of Common and Rent-Charge, which is no Land nor Tenement; and yet the words of the Statute are *Lands and Tenements*.

25 H. 8. Tit. 37. Lord and Tenant, the Tenant lets for life to J. S, the Remainder to an Abbot and his Successors: The Lord need not to make claim till the Tenant for life be dead; for if he waive the Remainder, it is no Mortmain: and held, That the Appropriation of an Advowson without License, is Mortmain.

Fitzh. 211. The King may give License to his Tenant to alien in Mortmain; for he may dispense with the Statute, but a common person cannot, but the King and the Mesne Lords may give License to a Tenant to alien in Mortmain: for the Statute was made for the advantage of the Lords, and they may dispense with it.

Treasure Trove.

Treasure hid in the ground, and found, belongeth to the King; and if it be found in the Sea, it is to the finder, *Britton*, fol. 26.

He to whom the property is, shall have Treasure found, because it belongeth not to the King, unless when no man knoweth who hid the Treasure, *Statham*, Tit. *Coron.* and 22 H.6. *Coron.* 446.

Punishment of taking Treasure found, is not of life and member, but shall be Imprisonment and Fine, *Statham*, Tit. *Coron.* and 22 E.3. *Coron.* 265.

Treasure found, belongeth to the Lord the King, and not to the Lord of the Liberty, unless by special words in the Deed of the Liberty contained, or by Prescription, *Statham*, Tit. *Coron.* and 8 Ed.2. *Coron.* 436.

Treasure found, is a certain old hiding Money, or other Metall, of which there appeareth no memory, so that now it hath no Owner; therefore all such Treasure is no mans proper goods, and by the old Law it was the finders; but now by the Law of the People, it is made the Kings, *Stamford*, fol. 39.

Estrey.

Where the Lord hath by a year and a day a Beast, and it be cryed in the Church, and in the Marker, the property is changed, 39 Ed. 3. fol. 3.

A man cannot intitle him to an Estrey, till the year and the day be past; for he to whom the property is, may take him within the year; but *Statham* seemed, he could not take it without his agreeing for his meat, 31 Ed. 3. Estrey 4.

Derinue, Issue if sufficient was tendered for his meat before claim, or not, 44 Ed.3. fol. 14.

Young Swans may be taken for a stray, and Proclamation made in Fairs and Markets, 7 H.6. fol. 29.

Waife.

If the Owner do not come within a year and a day, and be proclaimed in Markets and Parish-Churches, then the property remains to the Lord, *Britton*, fol. 26.

One justifies to have a stray in his Mannor, (according to the Custome used in the Kingdom of *England*) he proclaimed them in two Markets, *scil.* in D. and S. on the Market-Dayes, *Brook*, *Estrey*, 10.

If one have a Stray by three quarters of a year, and after that strays, and another happens it within his Mannor, the second shall not have it, for he hath no property untill the year and day, and Proclamation, 32 H. 8. *Estrey*, 11.

If a man have a Waif or a Stray by Prescription, and another taketh that out of his Mannor, he shall have Trespasse, though he did not seise them before, *Fitzh.* fol. 91. B.

One cannot take the Kings Beasts for a Stray, though they were within the Mannor by two years, 39 Edw. 3. fol. 4.

If one hath taken a Stray, and doth not proclaim it, the Owner may take it again, though he comes to claim it after a year and a day, *Britton*. fol. 26.

Book of Entries, One which justifies for a Stray, shall make prescription; that is to say, That according to the Custome in the Kingdom of *England* used, he proclaimed them in two Market Towns, *scil.* in D. and R. and so it seemeth, that an Estrey shall be proclaimed in two the next Market Towns upon Market dayes; and yet it seemeth, that Strays shall be proclaimed once in the Church, and twice in the Markets.

Waife.

Where Goods waived are seised by an Officer, the party shall not have them again without fresh Suit, and sue an Appeal, and now upon an Indictment give that in Evidence.

BY fresh Suit, the first Owner shall re-have his Goods which were stoln and waived, if he make fresh Suit, and bring an Appeal, 21 Ed. 4. Tit. 16,

G

Trespasse,

Trespasse, the Lord justifies, for that they were stolne and waived; the Plaintiff may say, That they were not stolne, or they were not waived, 12 Edw. 3. fol. 5.

Goods waived, the Owner may seise them twenty years after, if the Lord of the Franchise, nor the King seise before; but if they are seised, yet if he bring an Appeal, and make a fresh Suit, he shall have them again, 21 Edw. 4. Tit. 16.

Detinue, the Defendant as Lord justifies, That he took those as Waife; and good, 10 H. 6. fol. 22.

If one have a Waife, and it be taken out of his Manor, he shall have Trespasse without seising; and though he do not seise them, *Fitzh.* fol. 91.

Waifes and strays not claimed within the year and day, are the Lords; *Britton*, fol. 26.

Where Goods are waived, and the Lord seizes them, the property is changed, that the Owner shall not have them without suing an Appeal, notwithstanding by the 21 of H. 8. Chap. 11. *Rastall*, Restitution, 2.

If he give Evidence to the Jury upon the Indictment, he shall have Restitution, *Brook*, *Essey*, 8.

If a man be robbed, and make fresh Suit, he shall be restored, notwithstanding that he which hath waived, hath seised them before, 7 H. 4. 44.

If he make fresh Suit after the Felony, he shall have his Goods again, notwithstanding that they were waived and seised; and there ought to be an appeal sued, and so to have them when they are seised, *Stamford*, fol. 186. A.

Authority of the Steward.

Then let us see the Authority of the Steward, and
also of the Court-Leet.

THe Steward may make his Precept by word to the Bayliff to distrain; and it is good, 18 H. 7. fol. 14.

If a man refuse to be sworn of the Jury, he shall be fined, and the Steward of the Lord may commit him to Prison till he have paid his Fine, or Amerce, or distrain him for that, 31 H. 6. Leet 11. *Quere* of committing a Tenant to Prison; for in *Magna Charta*, chap. 29. is, No man shall be taken, &c.

The Steward may cause a stranger which cometh within the Precinct of the Leet, to be sworn to inquire in the Leet where he hath not sufficient residence; and the Lord may sell the distress taken in that, for that it is the Kings Court, 3 H. 7. fol. 4. 11 H. 7. 14. the same, and 21 H. 7. fol. 40.

The Steward is Judge in the Court-Leet, and in the Court-Baron the Suitors, unless all the Suitors be Copyholders; and then I intend they are no Judges, but the Steward, for that they have but a base Estate, and the Freehold is in the Lord, 12 H. 7. fol. 17. 6 Ed. 43.

Note, That where a false Judgment is sued, the Suitors are called Judges to certify, &c. but yet the Steward ought to be skilled in the Law; and of matters in Law, it seemeth he shall give Judgment, and not Suitors, for Actions and matters in Law, and yet it is (before the Suitors;) and though ignorant persons in Law rule in Court-Baron, and Liberties, that ought to be by them skilled in Law; and when there is a Liberty and Court granted to a Mayor, that is held by their Recorder or Steward which is intended to be skilfull in the Law; otherwise, it seemeth a cause to re-seise it, so that an ignorant person ought not to meddle in matters touching the Law.

The Steward may send a Prisoner taken for Felony to the Goal, 13 H. 4. fol. 12.

The Steward is Judge of Record, and may assess a Fine

for contempt made in a Leet, and the Lord shall have Debt for that, 7 H.6. fol.13. 10 H.6. fol.7.

Leets are appointed for the Common-wealth, as for preservation of the Peace, and for that they are Courts of Record, *Fitzh.* fol.82. in the beginning.

It is said, That a Leet is a Court of Record, 21 H. 7. fol. 33.

Tenants in a Leet may make By-Laws, 11 H. 7. fol.14. & 21 H.7. fol.40.

The Seneſchall of the Leet may compel the Suitors to swear; but otherwise it is in a Hundred, 39 Ed.3. & 44 Ed.3.15. *Leet*, 6.

Where one hath a Leet, he hath but the Amercements, and the day is to the King, and for that the Steward represents the Person of the King, 41 Ed.3. fol.27.

Suit at the Leet is called Suit-real, for that that is the Kings Court, 45 Ed.3. fol.23.

If the Steward of the Leet command the Bailiff to impanel a Jury to inquire for the King, upon pain of forty pounds, and he refuse to do it, he may put upon him the pain of forty pounds, and at the second time fifty pounds, or more. And note, That upon all pains the Lord may have an Action of Debt, 7 H.6. fol.13.

23 H.8. Tit.34. Debt lyeth for pain, for not amending an Annoyance, by Usage, Distress.

If the Jury will not present the Defaults in a Leet, of which they are informed, the Steward may assess a Fine upon them, 10 Ed.4. fol.4.

If any Suitor, present in Court, refuse to be of the Jury, or if any make another such contempt, or any contempt, or disobedience in Court-Leet, the Steward may set a Fine upon him without affirming by Affirors; but when one is amerced, that shall be affirmed by Affirors, 10 H.6. fol. 7.

When the Steward sets a Fine upon a Suitor, in Court-Leet, or other person for his misdemeanor, this is called a Fine, and not an Amercement, and is not traversable, 7 H.6. fol.13.

Judge of Record.

For that the Steward is a Judge of Record in Leet, it is expedient to see what a Judge of Record, and one by him may do ; And what not.

IT seemeth, That a Justice of Peace ought not to make a Precept to arrest one for Felony ; but if he do, (for that he is a Judge of Record) the Bayliff that serves that, is excused ; for he cannot argue his Authority : no more may the Sheriff argue the Authority of the Justices, 14 H. 8. fol. 18.

9 Ed. 4. fol. 3. A Justice of Peace may arrest a man for surety of the Peace by his discretion ; and though he suffer him without a surety, the party shall not punish him, for that he is a Judge of Record.

9 H. 6. fol. 60. Action of the Case doth not lie against a Justice of Record, supposing he hath made a false Record, or that he hath caused false Entry to be made ; contrary, against an Officer, as against an Escheator for returning a false Office ; or against a Sheriff, for they are Officers of Record, and not Judges.

12 H. 4. fol. 3. If a Judge of Record award one to Prison without cause, he shall have no Action against him ; yet a Judge of Record as a Justice of Peace, hath been punished in the Star Chamber for misdemeanor, and so may the Steward of a Leet, and so such a Judge of Record, for not regarding his Oath, as Mayors, Bayliffs, &c.

21 H. 7. fol. 22. If a *Capias* issue out of a Court of Record to the Sheriff where is no Original, yet this excuseth the Sheriff ; but if the Servant of the Sheriff arrest one by Process made out of a *Capias*, and return his Process, and the Sheriff do not return his *Capias*, false Imp. prisonment lies against the Servant, *Fitzh. 21. B.* one cannot assign Error, that the Jurors gave Verdict for the Defendant, and Judges enter that for the Plaintiff.

Now let us see what Presentment in Leet is traversable, and what not. And it seemeth, where it concerneth a Freehold, is traversable; and otherwise not.

Presentment in Leet by four, and not by twelve, that one hath dwelt within the Leet nor sworn, &c. it was traversed; but it seems if it were by twelve, it shall not be traversed, but shall have recovery by Writ of false Presentment, 5 Ed. 3. 26.

A thing presented in Leet, is as Evangelist, if it passe the day in which it is presented, but the same day you may have an Action of false Presentment against the Jurors, and after without recovery, 21 Ed. 3. Tit. Bar. 271.

Presentment in Lee which toucheth Freehold, is traversable, and other Presentments not, 19 H. 8. fol. 11. and 41 Ed. 3. fol. 27. the same.

Presentment in Leet which toucheth a Freehold, may be removed and traversed, and every presentment before Justices of Peace is traversable, 5 H. 7. fol. 3. & 6 H. 7. fol. 2. the same.

Presentment of blood-spilt, is not traversable, for that doth not touch Freehold, 2 R. 3. 12.

If the Presentment be not in a Leet of things there presentable, afterwards they shall be presented, as it followeth.

IF Presentment be not in Leet of things presentable there, then they shall be inquired and presented in Turn and if not there, then in the Kings Bench, 41 Ed. 3. fol. 27.

If things presentable, are not presented in Leet, they shall be presented in Turn; and if not there, before the Justice in Eyre: and if not there, in the Kings Bench, 10 H. 4. fol. 41.

Then let us see, what remedy the Lord shall have for Amerciaments in Leet, and what recovery for a Fine, and what upon Pain or By-Law; and it seems, that for Amerciaments, he may distrain; and for a Fine, assesse: and By-Law broken, shall have a Debt or Distress.

Amerciaments.

FOR Suits real he cannot distrain, but amerce; and by prescription distrain; and this is now in use in every Mannor: and for Suit-service, distrain without doubt, 12 H.7. 15.

One may prescribe to distrain for Amerciament in Law-day, for it is incident, 9 H.7. 22.

He may in Leet amerce and distrain for that, 8 H. 4. Tit. 15.

A man may in Leet-amerce for annoyance, and distrain for it, 19 Ed.3. fol.36.

One was amerced in Leet for stopping in the High-way, and his Horse in anothers keeping was distrained for it, 47 Ed.3.12.

The Lord may sell the Distress taken for an Amerciament in Leet, as the King may sell the Distress, for that it is the Kings Court, 3 H.7. fol.4.

If Amerciament in Leet be agreed, the Lord may distrain without notice, by *Finch*; and by *Wich*, it is a good plea, That the Tenant would have paid, if he had had notice, 45 Ed.3. fol.9.

The Lord cannot distrain for Amerciament in Leet, in a place seised into the Kings hands, for Debt to the King, for this is priviledged during the time, 47 Ed. 3. fol. 12.

Of common right the Lord may distrain for Amerciament in Leet; and for that, need not to prescribe, 10 H.7. fol. 15.

The Lord may distrain for amerciament for annoyance in the High-way, or for making Hedges cross the streets, and avow for that, 4 Ed. 3. 10. *Avowry*, 161.

The Lord may not distrain the Horse of another in the

Inne of him amerced, nor the Garment of another in a Taylors Shop, where the Taylor is amerced, 10 H. 7. fol. 21.

If one refuse to be sworn, or make any other contempt in Court, the Steward may assels a Fine upon him, and the Lord may distrain for that, 13 H. 6. Leet 11.

For a Fine asselled by the Steward for a contempt in the Court, the Lord may have debt, 10 H. 6. fol. 7. and 7 H. 6. fol. 13.

It a pain of ten pound presented in the Leet to be broken, the pain shall not be otherwise ascertained, and the Lord for that shall have an Action of Debt, but he cannot distrain and make Avowry but by prescription; but it is now used in every Mannor to distrain, as I think, 32 H. 8. Tit. 37.

The Lord may have Debt for Amerciament asselt in Court-Baron, 12 R. 2. *Statham*, fol. 62.

It seems the Lord shall have debt for relief, and clearly the Executors shall have Debt for Relief, 32 H. 8. 20. 19 H. 6.

Moderata misericordia, doth not lie where a Fine is asselled by the Steward for contempt in Court, nor where Amerciament is asselled; but where Amerciament is not asselled, that lieth if it be too high, *Fitzherb.* fol. 72. C.

If one be amerced in the Sheriff's Turn, the Sheriff may distrain throughout all the County; and if it be in a Leet, throughout all the Precinct of the Leet, 8 R. 2. Avowry, 194.

The Lord may distrain in the high street for Amerciaments in a Leet, 34 Edw. 2. and 19 Ed. 2. Avowry, 221.

Debt lyeth for the Lord for a Fine asselt in Leet by the Steward, for not returning the Pannels, or for other contempt; and it is good without confirming, 7 H. 6. fol. 13. tit. 233.

For Amerciament in Leet, it seems one may take goods of another in the keeping of him which is amerced; Yet see how Issue was taken, that it was not the Horse of *Prior Tindal* which was amerced which was taken, 47 Edw. 3. fol. 12.

For not cleansing of a Ditch by the Predecessor of a Parson

son, Successor shall not be punished for that offence ; the same Law of Father and Son, 5 H. 7. f. 3.

Distress.

where one may distress, and what thing.

One lifted a Mill-stone off the stock, to be picked on the floor, it is not so severed, but that it is parcel of the Mill, and cannot be distrained, and so it is of Windows and Doors, 14 H. 8. f. 29.

10 H. 7. fol. 22. You cannot distress the Garment of another man in a Taylor's shop, 21 Edw. 4. fol. 49. the same.

9 H. 6. fol. 9. The Lord cannot distress for his Rent, but in Lands held of him ; but the King may.

8 R. 2. Tir. Avowry 192. If one be amerced in Leet, the Lord may distress in any place within the Precinct of the that, and in the Turn of the Sheriff in any place within the County.

34 H. 8. Tit. 253. During the possession of the King, the Seigniorship of another is suspended touching the Distress.

5 H. 7. fol. 15. If one be amerced in a Leet, and another takes his Leather from him, and makes of that Boots and Shooes ; yet these Boots and Shooes may be distrained for this Amerciament within the Precinct of the Leet.

21 H. 7. fol. 13. The Lessor cannot distress Fats fixt by his Lessee for a Dying Pan ; and though the Lessee may remove them during his Term.

21 H. 7. fol. 26. Glasse fixt by the Termor, the Lessor cannot distress for his Rent, as it seemeth, and the Lord cannot distress Tables dormant in the house of his Tenant, nor a thing which cannot be attached in an Assise.

21 H. 7. fol. 41. The Lord cannot distress Shocks of Corn for his Rent, but doing damage he may.

27 Assises 66. One cannot distress in a Sanctuary, if it be not for Issues for the King.

6 H. 4. fol. 11. One may Arrest the Vicar in the Church by a *Capias*, notwithstanding the Statute, 1 R. 2. for that is intended he shall not Arrest him saying Divine Service.

13 H. 4. fol. 42. If one profer sufficient amends for wrongs which they have done, one cannot distrain and avow that.

Marlebridge, Chap. 2. That no Lord may distrain out of his Fee.

Marlebridge, Chap. 1. None shall make distress at his own will, without consideration of the Kings Court.

Marlebridge, Chap. 15. It is not lawful for any to make Distress out of their Fee, nor in the Kings way, or in the common street, but for our Lord the King, and for his Ministers, having special Authority from him.

In what place a Leet shall be kept, and at what time,

A Leet by the Statute shall be held but twice in a year: that is, in the Month of *Michaelmas*, and in the Month of Easter, by the intent of the Statute of *Mag. Chart. Cap. 35.*

Presentment in Leet held four dayes after the Month is void, 6 H. 7. f. 1. and 38 H. 7. the same.

One may prescribe to hold a Leet at a day certain, though it be not within the Moneth, and good, for it seems that *Magna Charta* is but Common Law; otherwise he cannot prescribe against a Statute, unless he have another Statute for the same, and if he hold that any other day, it is void that is done in a Leet, 33 H. 6. fol. 7.

By *Bryan*, Leet shall be held in any place within the Precinct of the Lordship, where it pleaseth the Lord, for it is the Court of the King, as the Kings Bench wheresoever it is, &c. 8 H. 7. 4.

Twelve shall be of the Jury in a Leet, otherwise the Presentments there are all traversable.

*Rastall,
Indict.*

THere shall be at least twelve in a Turn, and Turn and Leets are all one, *Westminst. 2. chap.*

Every

Every Indictment and Presentment in Leet shall be by twelve men at least, 6 H. 4. fol. 1.

Presentment that one had dwelt within view of Frankpledge, by a year and a day not sworn, &c. If it be not by twelve, it is traversable; and if it be by twelve, it is not traversable, 45 Ed. 3. fol. 26.

If there be not twelve to be sworn, the Steward may cause strangers to be of the Enquest, 2 H. 7. fol. 4.

By-Laws.

For that, that By-Laws are made many times in Leets, something shall be said of By-Laws; and I intend that By-Laws which are for the Common-wealth, shall bind all, and other By-Laws shall bind but those that assent.

VHere a By-Law is for a Common-wealth, it is good to bind all, though all do not agree, as to make a Causey, Way, or Bridge; but By-Law to repair a Church, is a Charge, for that it shall not bind but those that assent, 44 Ed. 3. fol. 19.

It is said, that Tenants in a Lee: may make by-laws, for that it is the Kings Court, which shall bind them by their assents; and a Town may make by-laws by prescription, and that shall bind them, but not a stranger; as by-law, that every one which puts in his Beasts into the Common before, &c. shall pay 10 s; this shall bind them which assent, but not a stranger, 13 H. 8. Leet. 37. 11 H. 7. 14. and 21 H. 7. 40. the same.

If a Town be amerced, and Neighbours assess a Sum of every Inhabitant, and agree to have J. S. to distrain for it, the distress is lawful, Doctor and Student, fol. 74.

Where the greatest part of a Town agree to a By-law, which was charged, that then it is good against them all, 8 Ed. 1. Assise 413.

By-law, that every one which holds Land, shall pay to the reparations of the Church, one penny, and for not paying, shall forfeit to the Lord twenty pence, it is not good, for the Lord hath no damage, but the Church-Wardens, and for that it shall be forfeit to the Wardens, &c. but where a by-law is for a Common-wealth, I intend for not doing

doing, shall be Forfeiture to the Lord, and this is good,
21 H. 7. fol. 20.

One cannot prescribe to make Laws to alker Inheritan-
ces, 49 Assise 8.

INMATES.

Though it be not specified in our Law, who are Inmates, and who not, nor any remedy provided against them; but only which have been used to avoid them by By-Laws made in Leets: yet it is not impertinent to see who have been taken in Law an Inmate, and who not.

IF one let part of his house in which he dwels, to a Gentle-
man which keeps not his Table there, but goeth to victu-
alling-houses for his victuals; but yet hath certain rooms in
the house, that is no Inmate; Also, if one keep his daugh-
ter married, and her husband by Covenant, or otherwise, and
suffer them to have certain rooms in his house; these, were
not accounted Inmates, and these shall not have Common.

But if a man have a house, and let certain rooms of that
to another to dwell with him, he hath been accounted an
Inmate, unless he be of ability to live, and shall not have
Common in the Lords Waste of Fields: But if one take
one to Table, or to sojourn with him in his house, and let
him certain rooms; he is not accounted an Inmate, and he
shall not have Common.

Also, if the Inheritor of a house, let a certain parcel of his
house in which he dwels, and severeth that from the other
part, and make several doors to the high Streer, it is now as
two houses, and is not accounted as an Inmate, but he shall
have no Common; otherwise it is, if they have but one door
to the high streer, for then it is accounted an Inmate, unless
he be a sufficient person to live of his Lands of himself, or
by his Art or Trade, so that he be not a poor Labourer; but
at this day some take Inmates more strictly; and, in times
past, none were punished in Leets by pains ordained in
Leet, but idle and bribing persons, which were common
breakers of Hedges, and other Bribers, which live in others
houses idly, or live suspect.

The Oath of the Reeve, or Bayliff.

YOU shall Swear, That you shall well and truly serve our Lady the Queen, and the Lord of this Mannor in the Office of Reeve or Bayliff of the Mannor for this Year to come, and you shall well and duly collect all such Rents, Revenues, and other annual profits as shall be chargeable, and issuing out of the same Mannor to you: And of that you shall make and give a lawful account at the end of the same year, and in every other thing belonging to your Office, well and truly to discharge in your Office, during this year to come. So help you God, &c.

The Oath of the Greve, or Hayward, or Bedle.

YOU shall Swear, That you shall well and truly serve the Queen our Sovereign Lady, and the Lord of the Mannor, in the Office of Greve, Bedle, or Hayward of this Mannor for this year to come, and you shall duly and truly execute all such Attachments, and other Proceffes, as shall be directed to you from the Lord or Steward of this Court, and you shall present all Pound-breaches which shall be made within your Office; and also all Chattels, Strays, and Waifs, and in every other thing, well and truly hold you in the same Office. So help you God, &c.

Oath of a Deciner.

YOU shall swear, That you J. S. from this day forward shall be faithful and loyal to our Sovereign Lady the Queen, &c. and to her Heirs, and shall keep unto her faith, and loyalty to her shall bear of life, and of member, and of earthly honour; and that you their hurt or damage shall not know, nor hear, which you shall not hinder, to your power. So help you God, *Britton, fol. 74.* gives that.

Oath of Affirors.

YOU shall Swear, That you will well and truly Tax, Assess, and Assize all the Amerciaments Presented in this Court; and in doing of that, you shall not spare any for love, fear, nor affection; nor raise, nor inhaunce any more grievous, than shall be reasonable according to their deserts made. And not more, nor less, nor for envy, nor for love assess or assize, but upon every one severally, according to the quality of their offences made, and not otherwise. So help you God, &c.

Oath of the Fealty.

YOU shall swear, That you shall be faithfull and loyal, and loyally and faithfully shall carry your self to the Lord of this Mannor, for the Lands and Tenements which you claim to hold of him, and you shall well and duly pay to the Lord of this Mannor, and his Heirs from time to time, all such Rents, Duties, Customes and Services, that you ought to pay, and make for the same Lands at the times appointed. So help you God, &c.

Oaths of the Ale-taster.

YOU shall Swear, That you shall well and truly serve your Sovereign the Queen, and the Lord of this Court, in the Office of Ale-taster, or Assize, within this Lordship for this year to come, and you shall well and duly see from time to time, that the Sale of Bread (brought to be sold) be duly weighed, and that it contain such weight according to the prizes of Grain, as by the Statute is provided; that is to say, according to the prizes of Corn in the next Markets. Also you shall have diligent regard during the time of your Office, to all the Brewers and Tiplers within your Office, that they and every of them make good and wholesome Ale and Beer for man's body, and that they do not sell any before it hath been tasted by you,

you, and then to be sold according to the Prices limited, and rated by the Justices of Peace; and all defaults committed, and to be done by the Bakers, Brewers, and Tiplers, or by any of them; you shall present at the Court here, by which punishment may be administred unto them for their offences; and in every other thing you shall well and truly behave your self in your Office for this year. So help you God, &c.

The Oath of the Constable.

YOU shall Swear, That you will well and truly serve the Queen, and the Lord of this Law-day; and you shall endeavour that the Peace of our Sovereign the Queen, well and truly according to your power, be kept; and you shall arrest all which you see making Riots, Debates, or Frayes, or breaking the Peace; and you shall well and truly endeavour your selves according to your knowledge, that the Statute of *Winton* for Watch, Hue-and-Cry; and the Statutes made for the punishment of sturdy Beggars, Vagabonds, Rogues, and other idle persons coming within your Office, that the Offenders be punished; and you shall endeavour your selves upon complaint to you, to apprehend Barrators and Riotous persons, making Frayes, and also apprehend Felons. And if any of them make resistance with force and multitude of Offenders, you shall make Out cry, and pursue them till they are taken. And you shall look to such persons as use unlawful Games. And you shall have regard to the maintenance of Artillery; and you shall well and duly execute all Proceſs and Warrants sent unto you from the Justices of the Peace of the County; And you shall make good and faithful Presentment of all Blood-sheds, Out-cries, Affrayes, and Rescues made within your Office; And you shall well and duly, according to your power and knowledge, do that which belongs to the Office of a Constable to do, for this Year to come; So help you God.

CONSTABLES.

And for that, that the Constable is here chosen and sworn, it is inquirable here, if he do his Office; and for that let us see what Authority a Constable hath, and what he ought to do.

AT the Common-Law, before the making of the Statutes by which Justices of the Peace were ordained to keep the Peace;

The chief Justice of *England* was appointed by the King, and he hath authority, and he was ordained to determine matters touching the Crown, and for conservation of the Peace thoroughout the Realm; and he for that is the chief Justice of the Peace.

Also by the Common Law, before there was any Justice of Peace; *Constables* of every Town were Keepers of the Peace within their Towns.

If any be threatned, upon Complaint to the Constable, he may enforce the party to put in a Surety; and if he do not, commit him to prison till he hath found a Surety, 4 *Ed. 3. Bw. 102.*

If any be stricken, and in peril of death, the *Constable* ought to Arrest the Offender, and to keep him in prison till it be known if he will live or die, or till he have found Sureties to appear before the Justices at the Goal-Delivery.

If Felons or Murtherers be in a Town, and the *Constable* hath Notice of it, it is his Office and Duty to raise People to take them, 1 *R. 3. Chap. 3.* And if any Felon be taken, it is the office of the *Constable* to take him, and carry him to the Goal, and to cause others of the Town to assist him in so doing.

Constables were ordained for two intents, that is, to keep the Peace, and also to apprehend Felons, and to take Surety by obligation of such persons that they find making Affrayes.

Constables may arrest men which go or ride armed between Fairs and Markets, and take their Armour as Forfeit to the King, 2 *Ed. 3. cap. 3.*

Constables ought to Arrest such which go by night, of whom

Rastal.
Amor 4.

whom there is suspicion, and deliver them to the Sheriff, there to remain in hold; and also all suspected persons, either by day or by night, and to deliver them to the Sheriff, as above, by 5 Ed. 3. Chap. 64.

Rastal,
Robberies 41

Constables have power to examine Vagabonds; and to compell them to find Surety for their good behaviour; and if they cannot find Sureties, to commit them to the next Goal, by 1 R. 1. Chap. 5.

Rastal,
Vag. 5.

Constables may arrest a servant-labourer vagrant, unless he have a Letter containing the cause of his going, and the time of his return, under the Kings Seal; and may set him in the Stocks, till he have found Sureties to serve, by 12 R. 2. Chap. 3.

Constables have power to commit every one using unlawful Games, and to keep them till the Offenders be bound in an Obligation to the use of the King, that he shall not use unlawful Games, by 5 H. 8. Chap. 2.

Rastal,
Vag. 5.
Rastal,
Arch. 2.

Constables upon complaint, may Arrest Boat-men, and Water-men, which take more then is appointed for them to take, and commit them to Ward for their misdemeanour, and to fine them for the same, by 6 H. 8. Chap. 7.

Rastal,
pass. 8.

Constables have power to commit Beggars to the Stocks which offend, by 22 H. 8. Chap. 12.

Rastal,
Vag. 2.

Constables ought to convey Rogues taken within their Office, to the next Constable, that they might be conveyed to prison, upon pain of six shillings eight pence for every offence, by 14 Eliz. Chap. 5.

Rastal,
Vag. 9.

Also if a Constable do not make search every Month for unlawful keeping of Games, and for unlawful playing, if occasion be; and present the same, he shall forfeit forty shillings.

The Constable is the keeper of the Peace, that is to say, the high Constable for the Hundred, and the petty Constable in the Town, 12 H. 7. fol. 38.

Constable may Arrest one to find Surety of the Peace; and if he will not obey, he may take power to enforce him, and one may justifie that commeth in aid of the Constable, to Arrest one that makes an assault, 3 H. 4. fol. 10.

Constable may Arrest one which makes an assault, though it be of himself, 5 H. 7. fol. 6.

Constable was ordained to keep the Peace, and may

take Surety for the Peace by bond of one, if he be found making a Fray, 10 *Ed. 4. fol. 18.*

Constable may arrest one which makes a Fray, and carry him to the next Goal, till he find Surety for the Peace; but not imprison him in his House, or put him in the stocks, unless it be in the night, that he cannot carry him to the Goal for any other reasonable cause, 22 *Ed. 4. fol. 35.* by *Bryan.*

Constable may search for suspicious persons; and may arrest Night-walkers, 2 *Ed. 4. fol. 9.*

Constable may search for suspicious Bawdy-Houses, where women of ill fame are, and may arrest suspected persons, which walk in the night, and sleep in the day, or keep suspicious company; and if he be not of power to arrest them, he may have aid of his Neighbors by the Law, 3 *H. 7. fol. 10.* that he may have aid, 13 *H. 7. fol. 10.* Title *Recognizance 14. Brook.*

Constable cannot take a Recognizance to keep the Peace, but an Obligation.

38 *H. 8. Tit. False Imprisonment 6.* It is said, That one cannot arrest for a Fray after it is done, without a Warrant; but before it be done, or whilest it is a doing, he may.

7 *H. fol. 6.* Trespas of Imprisonment; the Defendant saith, That he was Constable, and for that the Plaintiff made an assault upon him, and broke the Peace, he took him, and carried him to the Goal, to preserve the Peace, 21 *H. 4. fol. 21.*

10 *E. 4. fol. 20.* Stocks are ordained properly to punish Vagrants, and Servants for wages. See 7 *H. 4. Chap. 17.*

Britton, fol. 17. None shall be put in Irons, but those which are taken for Felony, or for Trespas in Parks or Chases.

West. 2. chap. 39. For resistance, where a process is to be executed, that Statute gives aid and power of the Countrey against them which make resistance.

3 *H. 7. fol. 1.* It is held there, that the Constable may take the power of the Countrey where there is a Fray, and speciality to take Felons.

For that it is the Office of a Constable to see that Watch be kept,
let us see how a Watch may be.

THe Watch ought to begin at the Feast of Ascention,
and ought to be held till Michaelmas all the night,
from the setting of the Sun to the rising; and in every
City six shall be at every Gate, and in every Town they
ought to watch twelve men, and in every Village six
men, or four, according to the number of the Inhabitants
of the Village: and if any Stranger be arrested in the
Watch, he shall be kept until the Morning; and if they find
suspition in him, he shall be delivered to the Sheriff, and
if no suspition be in him, he shall go free: and if any will
not obey the arrest, they ought to raise Hue-and-Cry; and
for arresting such a Stranger, none shall be punished, 13
Ed. 1. Chap. 3.

Every one may Arrest Night-walkers, which go by the
way, for it is for the common profit, 4 H. 7. fol. 18. and 5 H. 7. fol. 7. 5. the same. *Rastals. Rob. 2.*

Entry of Court-Leet.

Visus franc' pleg. ibidem tenē die Jovis vicefimo die
Ostobris, Anno regni Regine Elizabeth, Die grat' *Prebenda*
Anglie, Franc. & Hiherñ. fidei defensoris, &c. vicefimo *de Iledon.*
primo.

¶ Robertus Marten per Johannem Style effon de cōi, *Effon.*
& issint les auēs effon.

Johannes Doo
Richardus Rop
Johannee Den
Wilhelmus Fen

Iur Johannes Hie
Thomas Pie
Johannes Myles
Thomas Gyles

Iur q. Re-
gina.

Wihelmus Neile
Johannis Sneil
Wilhelm° Riggs
Thomas Riche

Iur Rich. Cooke
Johans Turke
Ric Leake
Johans Peake

Presenit
pro Regi-
na.

Petit trea-
son.

Felonie
combust
meason.

Felson.

Accessoric.

Rapt.

Felson in-
fregit mea-
son.

IN primis Iur' pd' dicnt sup' eor' sacrament', quod R. S. &c. apud Islington, infra jurisdictionem hujus Cur', ut telo dominæ Reginæ, centum Angelos aureos, & trecent' grossos falso, & felonice excudebat, & fabricabat, (litteris patentibus dominæ Reginæ inde prius non obtent') contra pacem dictæ dominæ Reginæ nunc, Coronam, & Dignitatem suam, ac contra formam statuti in hujusmodi casu edit' & provis.

Item present' quod quidam Tho. de I. pred' yeoman, tali die &c. apud I. intra jurisdictionem hujus Cur', vi & armis &c. voluntarie ac felonice ex malicia sua pre-cogitat', domum cujusdam J. S. combussit cōtra pacem dominæ Reginæ. Ideo preceptum est ballivo seiscire omnia terras & tenementa, bona & cattalla sua, ut respondeat de eisdem domino hujus manerij.

Item present' quod W. P. de I. predic', Laborer, tali die &c. apud I. intra jurisdictionem hujus Cur' vi & armis &c. ac contra pacem, clausum cujusdam &c. apud I. predic' fregit & intravit, & unam Tunicam byssem, vocat' Satten, coloris nigri, de bonis & cattallis predic' &c. adunc & ibidem invent', felonice cepit & asportavit. Ideo precept' est ballivo &c.

Item present' quod W. S. de I. predic' yeoman infra jurisdictionem hujus Cur', cōsultavit, instigavit, procuravit, cōfortavit, & abbetavit quendam L. M. &c. unam vaccā coloris nigri, precij &c. de bonis & cattallis cujusdam &c. adunc & ibidem invent', felonice furari, capere & abducere: Ac predic' L. virtute cōsultationis, instigationis, procurationis, confortationis, & abbetationis predic' &c. predictam Vaccam, tali die &c. Anno &c. felonice furatus fuit, cepit, & asportavit.

Item present' quod A. B. de I. predic' yeoman tali die &c. apud I. infra jurisdictionem hujus Cur' clausum & donum cujusdam &c. fregit, & intravit, & in quandam Katherinam &c. filiam &c. in pace dei & dominæ Reginæ existē insultum fecit, & ipsam vi & armis adunc & ibidem contra voluntatem suam rapuit, & eam carnaliter cognovit contra pacem &c.

Item present' quod B. D. de I. predic' yeoman, tali die &c. apud I. infra jurisdictionem hujus Cur', circa horam nonam in nocte ejusdem diei, domum & mansionem cujusdam &c. ut felo dominæ Reginæ fregit & intravit.

intravit, ea intentione ad spoliandum predicf &c. Et sex Angelos aureos de bonis & cattallis predicf &c. adtunc & ibidem in quadam cista existentes, felonice cepit & asportavit, contra pacem &c.

Item present quod E. F. de I. predicta, Laborer, tali die &c. apud I. infra jurisdictionem hujus Curie, vi & armis ac contra pacem &c. in quendam T. D. apud &c. in ra jurisdictione hujus Curie in Regia via ibidem in pace Dei & domine Regine existentem, insultum fecit, & ipsum T. D. adtunc & ibidem spoliavit, & sexdecem grossos argenteos, & unum Angelum aureum, de bonis & cattallis pred cf, T. D. in quadam marsupio suo adtunc & ibidem existē, a persona ipsius T. felonice cepit & asportavit, contra pacem, coronam, & dignitatem suas &c.

Item present quod predicf T. D. existens spoliat, Huresium; levavit magnum huresium & exclamation, & predicf E. F. tanquam felon dictæ dominæ Regine dict die & anno a pred cf loco ubi sic spoliat fuit recenter insequabatur, usq; ad predictam villam de &c. & quod nullus inhabitans ibid' pred' felonem super huresiū predicf insequabatur, & sic predictus felo evasit, in dictæ dominæ Regine contemptum, ac contra formam Statuti de Winton in hujusmodi casu edit & provis. Ideo predicta villa de &c. in misericordia &c.

Item present quod E. L. de I. predicf yeoman, tali Fugam fel die & anno &c. apud I. infra jurisdictionem hujus Curie, quendam spadonem coloris albi, precij &c. de bonis & cattallis cujusdam &c. in communi campo ibidem existē, felonice furatus fuit, cepit, & abduxit. Et quod predictus E. L. pro feloniam predicta se retraxit, & effugit. Ideo preceptum est ballivo seiscire duas vaccas de bonis & cattallis, predicf E. L. tanquam escaet, & domino forisfaci. Et quod salvo custodiantur ad usum domini &c. vel sic ad usum Regine.

Item present quod cum quidam B. R. de I. predicta Escapet; yeoman capf fuit, & arrestat' pro suspicionem cujusdam felonie, & in cippis possit, quidam I. F. de I. pred' Laborer, tali die & anno &c. apud I. pred' pred' cippis vi & armis, ac felonice, regit, & pred' B. R. adtunc et ibidem evadere & ad largum ire pmissit contra pacem. Ideo preceptum est ut prius &c.

Felon.

Item present quod T. J. de J. predicte yeoman tali die, &c. apud J. infra jurisdictionem hujus Curie, unum vitulum precii, &c. de bonis & cattallis cujusdam J. B. adtunc & ibidem invente, felonice cepit & asportavit. Et quod W. Q. ballivus manerii predicte tali die & Anno &c. apud J. predicte predicte T. J. pro suspicionem felonie predicte arrestavit. Et quod W. F. de J. predicte laborer vi et armis &c. apud J. predicte die die & Anno in predicte W. Q. in pace Dei & d. e. dominar. Regine ex stein insule fecit, & predicte T. J. in Custodia predicte W. adtunc & ibidem felonice cepit, atripuit, & rescussit, & ad largum ire permisit, contra pacem &c. Ideo preceptum est ut supra &c.

Felon columbar.

Item present quod A. B. de J. predicte yeoman tali die & an &c. apud J. infra jurisdictionem hujus Curie circa horam primam in nocte ejusdem diei, quoddam columbare cujusdam &c. fregit & intravit, & quadraginta Columbas precii &c. de bonis & cattallis predicte &c. a domo ejusdem &c. felonice cepit & asportavit, contra pacem &c. Ideo &c.

Felon dame domestic.

Item present quod J. W. de J. predicte generosus tali die &c. apud J. infra jurisdictionem hujus Curie quandam damam domesticam & gerentem campanam circa collum suum, precii &c. de bonis & cattallis cujusdam &c. adtunc & ibidem invente felonice cepit & asportavit contra pacem &c. Ideo preceptum est ballivo, ut supra, &c.

Felon de trunco fract.

Item present quod quidam J. L. de J. predicte yeoman, tali die &c. apud J. predicte infra jurisdictionem hujus Curie circa horam primam in nocte ejusdem diei, quandam truncum cujusdam &c. fregit & intravit, & decem pisces vocat pikes, precii &c. de bonis & cattallis predicte &c. a trunco ejusdem &c. adtunc & ibidem felonice cepit & asportavit, contra pacem &c. Ideo &c.

Petit larcen.

Item present quod P. J. de J. p. yeoman tali die &c. clausum cujusdam &c. apud J. pred. fregit & intravit & unum mantile vocat a Towel precii vi. d. de bonis & cattallis predicte &c. adtunc & ibidem invente, felonice cepit, & asportavit. Ideo preceptum est ballivo seiscire omnia bona & catalla sua in manus domini.

Vend. in Coemiterio.

Item present quod VV. B. & T. VV. de J. predicte. carnicifex tali die &c. infra precinctum visus franci pleg. posuerunt carnes

carnes suas, & alia venalia in ecclesia, & cœmiterio de I. predic^t ad vendend^o, easdemque ubi divina servitia celebrantur, & humana corpora sepeliuntur, vendiderunt, contra formam Statuti de Winton in huiusmodi cas. edit^o & provis^o. Ideo ipsi in misericordia &c.

Item present^r, quod quædam M. S. veniebat infra jurisdictionem hujus visus franc^o pleg. & huc attulit quædam bona, & catalla per ipsam furata, videlicet, unum indusium lineum p ecij &c. & diversa alia vestimenta, Anglice, **one smocke, one peticote, and one shyt.** Qui omnia predicta valent xx s. & non amplius. Et que omnia & singula huc q^o p^odic^t M. allat^o fuer^o. Et eadē M. hic infra jurisdictionem hujus manerij illa waiviavit, reliquit & au- fugit, per quod omnia bona & catalla predic^t pervenerunt domino istius manerij, super quod precep^t fuit balliva seiscire in manus domini tanquam escaet^o & domina foris fac^t & sic f. cit^o, & bona & catalla predicta fuerunt deliberata domino in ista Curia.

Catalla
waiviat.

Item dicunt quod dant domino de certo pro communi fine ad hunc diem ex antiqua consuetudine vj. s. viij. d^o.

Communi
finis.
Decenn
qui fec^t
defalt^r.

Item present^r super eorum sacramentum quod Jo-
hannis Rigge, Richard Wrenne, & Jo. Williams sunt res-
santes infra p^ocin^o vis. franc^o pleg. predic^t. Et ad hunc
diem fecerunt defaltam. Ideo quilibet eorum in misericor-
dia, ut patet super eorum capi^t.

ij. d^o. ij. d^o.

Item present^r quod Richardus Wrench, W. Fynch,
ij. d^o. ij. d^o.

Non jur^o in
decennar^o.

R. Berres, & Wisshel Gybey, inhabitaverunt infra pre-
cinc^o hujus vis. franc^o pleg. per spacium unius anni &
diei & amplius, et non jurantur dominæ Reginæ pro le-
giantia. Ideo quilibet eorum in misericordia, prout patet
super eorum capi^t.

Item present^r quod R. C. de I. predic^t yeoman divertit
cōmunē cursuū cujusd^o rivoli ducent per domum cujusd^o
T. H. extra rectum cursuū quo solebat currere. Ideo pre-
ceptum est ei dimittere in suo recto pristino cursu, citra
festum &c. sub pena &c.

Nocumēt^o
aqua.

Item present^r quod est quedam sepes de magna crassitu-
dine, & quod frondes inde pendent ultra venellam vacat^o
Kingslane, ad nocumentum carriag. ultra eandem venel-
lam

Nocumēt^o
fronder.

Iam carriand', in defectu VV. C. Ideo preceptum est ei succindere sive amputare illas citra festum &c. sub pena &c.

**Nocument
guttera.**

Item presentant quod est quadam guttera, ducens a domo sive coquina T. I. per quam sordida sive aqua fetida a diebus coquina est conducta in Regiam viam, ad grave nocumentum Regie vie, & omnium carriag. ultra eandem carriand' per populum dominæ Regine. Ideo preceptum est ei amovere sive abstopare ill' citra festum &c. sub pena &c.

**Communis
via**

Item presentant quod communis via ducens per campum vocat' le Prebend' fielde, est communis via ad ducend' & equitand', & sic usa fuit a tempore cujus contrarii memoria hominis non existit. Et quod porta & pons existet ultra ulteriorem pontem, debent esse manutent' & custodit' per terræ tenent', & modo non sunt. Ideo preceptum est terræ tenent' eandem portam & pontem emendare & reficere, ante festum sancti J. Baptistæ proximi futuri sub pena &c.

**Nocum-
mentum
sterquilini-
um.**

Item presentant quod R. VV. erexit quoddam sterquilinum, adversus domum suam prope regiam viam, ad nocumentum populi dominæ Regine. Ideo preceptum est ei amovere & abscariare ill' citra festum &c. sub pena &c.

**Nocument
fossat'**

Item presentant quod est quoddam fossatum inscorat' & immundat' in defectu B. S. ad nocumentum &c. Ideo ipse in misericordia xii. d. Et preceptum est ei escorare sive mundare ill', citra festum &c. sub pena ij. s.

**Hospitatrix
meretrici-
um.**

Item presentant, quod A. B. vidua, est communis hospitatrix & receptrix meretricum & mulierum male fame & conversationis, ad grave nocumentum vicinorum suorum. Ideo amerciat' ij. s. ij. d.

**Obiurga-
rix.**

Item presentant, quod N. C. vidua, est communis obiurgatrix cum vicinis suis, & communis fractrix sepium. Et ipsa non est de bona familia sive gubernatione. Ideo ipsa in misericordia, ut pater supra &c.

Transgress'

Item presentant quod quidam A. B. serviens VV. C. ballivi domini, ut fuit deducens certa catalla cujusdam R. G. usque parcum domini ibidem inparcat', venit quidam E. P. cum violentia magna in parcum prædict', cum uno gladio precij v. s. Et adtunc & ibidem prædict' A. B. percussit

perculsit cum eodem gladio super caput ejus, & sic effudit sanguinem super eundem A.B. occasione cujus percussione prædict' B. cecidit ad terram quasi mortuus esset. Ideo prædict' D.P. in misericordia, & affir per capital' pleg. ad quinque solidos.

Item present' quod J. S. fecit affraiam infra jurisdictionem hujus Cur, & traxit sanguinem, ideo ipse in misericordia iij.s. iij. d. **Affraia.**

Item present' quod W.G. est Constabular', & non est hic ad visum franc' pleg. ad present' id quod ad officium illud pertinet, sed fecit defaltam. Ideo ipse in misericordia ij. s. **Costabl' defalt.**

Item present' quod R.S. est gustator cervicie, & non est hic ad visum franc' pleg. ad presentand' id quod ad officium illud pertinet, sed fecit defaltam. Ideo ipse in misericordia ij. s. **Gustat' servitiz defalt.**

Item present' quod R.B. & W.G. sunt communes appreciatores, & essent hic ad present' id quod ad officium illud pertinet, & fecerunt defaltam. Ideo ipsi in misericordia iij. s. iij. d. **Comen apprec' defalt.**

Item present' quod B.R. & C.D. sunt scrutatores vicual' & essent hic ad visum franc' pleg. ad presentand' id quod ad officium illud pertinet, & fecerunt defaltam. Ideo uterque eorum in misericordia ij. s. **Scrutat' vitul' defalt.**

Item present' quod Thomas J. & Wilhelmus J. sunt escoratores vicorum, & debent esse hic ad visum franc' pleg. & fecerunt defaltam. Ideo uterque eorum in misericordia vj. d. **Escorator' vicorum def.**

Item present' super eorum sacramentum quod vicesimo die Maij, Anno Regni Domine nostre Regine Elizabeth nunc vicesimo primo, veniebat infra dominium istud unus equus coloris Grey de extrahura, & remanet in custodia X.D. ad proclamand'. **Extra- huf.**

Item present' quod est unus Pullus coloris Bay, ætatis quatuor annorum sive plus, qui veniebat infra dominium istud ut extrahura, nono die Septembris Anno Regni dicte domine Regine vicesimo, precij xxiiij. s. & remansit in custodia ballivi per spacium unius anni & unius diei, post tres proclamationes per tres separales dies factas, secundum formam Statuti. Ideo proprietas ejusdem pulli est in domino.

Item

xij. d. xij. d.

Pistor
mīa.

Item presentē quodd W. M. & R. B. sunt communes pistorum humani panis, & per diversas vices pinsuerunt panem insalubrem, & fregerunt assisam. Ideo uterque eorum in misericordia, ut patet super eorum capitū.

Bracia
mīa.

Item presentē quodd Richardus W. & J. D. sunt communes braciatores cervitiæ, & braciaverunt per diversos vicos cervitiā insalubrem, & fregerunt assis. Ideo uterque eorum in misericordia, prout patet super eorum capitū.

Tipul
mīa.

Item presentē quodd E. W. & W. X. per eorum uxores sunt communes tipulatores cervitiæ, & per illicitas mensuras vendiderunt cervitiā, & fregerunt assis. Ideo uterque eorum in misericordia, prout patet super eorum capitū.

Pena positi.

¶ Imprimis ordinatū est, quod R. B. faciat & escorat fossatum suum apud inferiorem finem de Great hill, continēt per estimationem viginti perticæ, circa festum Nativitatis Sancti Johannis Baptiste proximi futurū, sub pena pro qualibet pertica inde viij. d.

Pena

Item ordinatū est, quodd T. M. reformet & exponat quandam parcellam terræ nuper per illum incrochiaā inter Washe Lane & Peckham rye common, ante festum omnium Sanctorum proximum futurum, sub poena pro qualibet pertica non reformatā atque expositi xx. d.

Pena

Item ordinatum est, quod nullus permittat averia sua, videlicet, boves vel vacas suas transire, & pascere super communiam hujus domini, nec in venellis eidem manerio pertinere, absque custode, sub pena forisfacti domino per quemlibet eorum pro quolibet tempore ij. d.

Pena

Item ordinatum est, quod W. J. amoveat sterquilinum suum, jacens per Regiam viam adversus domum suam, ante fest. Paschæ proximi sub pena forisfacti domino x. s.

Pena

Item ordinatum est, quod J. F. faciat & manureat pontem in clausu suo vocato Great Colmans, in via ducente de Ilington ad Hoggelden, sub pena forisfaciendi domino x. s.

Item ordinatum est, quòd quilibet ingulat, vel quòd quilibet annulat porcos suos ante festum sancti Michaelis Archangeli proximi, & eisdem servaret sic ingulat sive annulat, usque festum sancti Johannis Baptiste, tunc proximum sequentem, sub pena forisfac' domino pro quolibet porco, pro qualibet septimana, iij. s. iiij. d. Pena

FINIS Court Leet.



The manner of keeping a Court-Baron.

Curia R. F. C. ibidem tenta die Martis, videlicet decimo quarto die Maij. Anno Regni Reginae Prebend
ELIZABETH, Dei Gratia Angliæ, Franciæ, de Isling-
& Hiberniæ, fidei defensoris, &c. 26. Tenē per J. K. ton.
Seneschallum.

J. S. J. D. & R. R. Effoin de commune vel effoin pro Effoin.
secta Cuiæ, per R. R.

Johannes Duo,
Richardus Roo,
Johannes Den,
Richardus Fen,
Walterus H llen,
Robertus Allen,

Robertus Dodg,
Thomas Lodg,
Adam Clarke,
David Parke,
Henricus Roo,
Wilhelmus Croo.

Homa-
giun.

First, after the Seile of the Court is entred, you shall make one O yes, and then call the Suitors; and after that, another O yes shall be made, and then the Steward shall say,

If any will be Effoynded, or enter any Plainr, conie you in, and you shall be heard.

And after your Effoyne entred, and your Plaint determined, then impannel your Jury, and Swear them.

And

An Exhortation to the Jury.

And after the Enquest is impannelled and sworn, make another *O Yes*; and then you shall say, You good men which be impannelled, come near; and you and all other keep silence, during your Charge.

An Exhortation to the Jury.

YOU good men which are sworn, before that I enter to give to you the Charge, I intend to shew to you by what Authority you are assembled, and for what purpose.

First, you ought to consider, That there are three causes of your meeting.

1. One cause is, for that you be resident, and dwelling within the Precinct of the Lect here to be held, and for that you ought to appear.

2. The second cause is, For that some of you hold Land of the Lord of this Maunor, some as Freeholders, some as Copyholders, and by reason of some of your Tenures, you ought to make Suit to the Court-Baron of your Lord, from three weeks to three weeks, if this Court be so warned.

3. The third is, you may here learn the Laws, to know what thing to follow, and what to avoid; by which that which is good may be the better followed, and ill things the better be avoided, being presented by you, and punished; and for that, that every one may live and enjoy that which he hath with quietness, and the Commonwealch may flourish, and vertue abound: and then for that you may better enquire and present, I have ministered to you a corporal Oath, which I counsel you to consider, and the parts of that, which are three, that is to say, Truth, Judgment, and Justice.

Truth, That you shall present nothing but truly; and that you shall not omit any thing of the Truth not presented.

With Judgment, That you shall present all things with good advisement, and that you shall not be negligent to enquire out the truth in all matters to be presented.

With Justice, That you shall not for favour, nor for corruption of reward, nor for fear, nor for displeasure, nor

for private hurt or profit which may come to your selves, nor for malice that you present any thing: And these three principal things you ought well to regard in your Oath.

And at the last; note, That you run not into wilful perjury; which if you do, you condemn your souls, and provoke the anger of God, and get punishment to your selves, and your posterities in this world, and you get to you the torments of the Divil and Hell, after this life, for ever.

But if you keep well your Oath, you obtain by that, great profit and commodity; for by that, wrong shall be redressed, peace and tranquillity shall be maintained, and right and publique good preserved, and you shall live in quiet, and hold your Goods, Lands, and Lives, in peace, and quietness, and you shall be accounted after this life, among the Saints of God, and shall have life eternal: And over that observe you, That I may by the Law charge another Jury immediately to inquire of your Concealments and Perjuries, and that you shall find by putting great Fines and Amerciaments upon you, and imprisoning your bodies. And to conclude, first, Now if you remember your duties to God, as I have said, that will move you to keep your Oaths, and the love that you owe to the Commonwealth, with consideration of your selves, wives, sons, and posterity, and the fear of God, and regard of honesty, and all these well considered, then you will present justly and truly, the things which I shall give to you in Charge: And I make an end, and the Articles of your Charge follow.

Then followeth the Charge in Court-Baron.

The Charge in Court-Baron.

First, you ought to inquire of all persons which owe Suit to this Court, and who make default; and present their names; and you ought to note, That all such persons which hold any Land of the Lord by Suit of Court, in what place they dwell, and of what age he is, that should make Suit to the Court, or otherwise he ought to be amerced, and

and Amerciament is by Custome; for by the Common-Law they shall be distrained, and that is called Suit-service, and that is by reason of the Tenure; and if any such person which oweth Suit to the Lord be in Ward to the King, nevertheless he may be amerced, for not making Suit to the Court of the Lord, but the Lord cannot distrain for this Amerciament during his Wardship; yet after Livery, the Lord may distrain for the whole Amerciament.

Coparceners.

And if there be two Coparceners, for which one Suit ought to be made, the eldest sister ought to make the Suit only, and the other shall be contributory, *Fitzh. 159. B.*

Joynt-Tenants.

And so it is of Joynt-Tenants, the Suit may be made by agreement by one, and the other shall be contributory, by *Mylb. chap. 9.* but if one holds twenty Acres by Suit of Court, and alien that to twenty several persons, by the Statute of *Quia emptores terrarum*, every one shall make Suit severally.

Rastall,
Suit. 1.

2. Also, If any Tenant be dead after the last Court, or before, and his death not presented, you ought to inquire what Lands he holds of this Mannor, and if they were held by Knights Service, Socage, or by Copy; and what advantage the Lord shall have by his death, *Scilicet*, Wardship, Marriage, Relief, Escheat, or other profits; and who is his next heir, and of what age, and in whose custody he is.

Ward
Relief.

3. Also, If any Tenant which holds by Knights Service, alien his Land by Collusion to defeat the Lord of his Ward, and other Profits; it is inquirable.

4. Also, If any Tenant which holds by Knights Service be disseised, and dyeth disseised; his heir within age, the Lord shall have him in Ward. and if any Tenant which holdeth by Knights Service, dye, his Heir-male within age of 21 years, the Lord shall have the Land in Ward, till the age of 21 years, and also his marriage, unless he be married, *Litt. fol. 19.*

5. If the Father which holds in Knight-Service marry his daughter within age, to a husband of full age, and dies, the Lord shall not have the Wardship of the Land; and if she were of full age, the Lord shall not have the Wardship of the Land; but if she were within age, and marry to a husband within age, the Lord shall have the Land in Ward,

Ward, till the age of 14 years, *Natura brevium*, fol. 98.

But if such Tenant die, his Heir female being of the age of 14 years or more, and not married, she shall not be in Ward, nor her Land; but if she were within age of 14 years, and not married, she shall be in the Ward of Body and Land, till the age of 16 years; and if she were married in the life of her father, within the age of 14 years, her Land shall be in Ward till the age of 14 years, and no more, *Litt. fol. 19.*

6. And you ought to note, that there is Knights Service of a common person, that is, where one holds of his Lord by Homage, Fealty, and Escuage; that is to say, when it is assessed to more, more; and when to less, less, *Litt. fol. 19.* And where one holdeth by keeping a Castle, or by blowing a Horn, that is Knights Service.

7. And Soccage Tenure is, where one holds by Homage and Fealty, or by Fealty and Rent; or by Homage, Fealty, Rent, and by Suit of Court for all manner of Service, or in Burgage; and if such Tenant die, his Issue within the age of 14 years: then the next friend of the Heir, to whom the Inheritance cannot descend, shall have the Ward of the Land, and of the heir till 14 years, and then give an account to the heir of the profits taken; but this Guardian shall have his reasonable allowance for his costs and expences, *Litt. fol. 22.* See *Natura Brevium*, fol. 97.

8. Relief of Soccage is as much as the chief Rent is by the year, which he pays to his Lord; and this is due forthwith after the death of his Tenant in Soccage, so that the Heir be past his age of 14 years. *Littleton, fol. 24.*

9. And if Land be held by Knight Service, and his Tenant dies, his heir of full age, the Relief is due to the Lord; and if he hold by an intire Fee of a Knight, the Relief is one hundred shillings; and if he hold by the half of a Fee, fifty shillings; and so according to the rate, *It. fol. 21.* And all these profits are inquirable.

10. And if any Rent, Custom, or Service be withdrawn, which ought of right to be made, by whom it is withdrawn; and what Custom and Service it is; and what Bayliffs time it was withdrawn, and where the Land is, that the Lord may distrain for the Arrearages; and what Rent that is; and how many years it hath been withdrawn.

11. Also

*Lands con-
sealed.*

11. Also if any Land of the Lord be withdrawn, or used by any without License of the Lord, by whom it is, and how much Land hath been so used, and of what value by the year that is, is inquirable.

Villain.

12. Also if any Villain of the Lord be, and what Goods, Chattels, and Lands he hath, what estate he hath in them, that the Lord may seise them, and what other things he hath : And if any Villain withdraw his Goods out of the Lordship, without license of the Lord; or if a free man marry a Villain woman, without license of the Lord; it is inquirable.

Note, If a Villain purchase Lands, and do not alien them before the Lord enter into them, the Lord shall have them : Otherwise it is, if the Villain alien them before the entry of the Lord ; the same Law is of Goods, *Lit. fol. 33.* but the Lord cannot seise the Goods which a Villain hath as Executor, *Litt. fol. 35.*

If a Villain be made a Chaplain Secular, the Lord may seise him as his Villain, and his Goods ; but otherwise it is, if he enters in Religion : Or if a Free man espouse a Villain Woman, without the License of the Lord, or by that, this is inquirable.

If a Villain dwell in ancient Demesne of the King, which is in the Kings hands, and hath dwelt there by a year and a day, the Lord cannot seise him ; nor shall have a Writ of *Nativo habendo*, so long as he dwelleth there : But if the Lord claim him within the year, that he cometh into ancient Demesne, and so makes his claim within every year and a day, then the Villain shall not take advantage by his being there ; and if the Villain dwell in another Mannor of ancient Demesne, which is in possession of another then the King, the Lord may seise him, *Fitzh. fol. 79. A.* and from thence-going, that the Lord may make his claim, if he go in ancient Demesne, is inquirable.

Escheat.

Also if any of the Tenants of the Lord be dead without Heir general or special, then the Lord shall have his Lands by Escheat ; or if any Tenant seised in Fee, be attaint of Felony, by Our-lawry, Verdict, or otherwise, the King shall have (year, day and waste) and after the Lord by Escheat, and is inquirable. Or if a Bastard purchase Land, and die without Issue of his Body, the Lord

Lord shall have his Land by Escheat: and note, That none shall have Lands of Fee-simple, as heir to any man; unless he be heir of the whole blood, *Littleton, fol. 2.* and if the Tenant be disseised, and dies without heir, the Lord shall have the Escheat.

14. Also if any, which hath not Common without number, charge the Common with more Beasts then he ought to do, according to the quantity of his Land; or if he which hath Common Appendant, not Common Appurtenant; put into the Common, Beasts which are not commonable, as Hogs, Goats, and Gees; or if any dig in the Common, unless it be for Gravel for the High-waies, and fill it again; or maketh other Trespasses in the Common, or use the Common in any other manner, without the License of the Lord, but to take his Common with the mouth of his Beasts; or if any dig Turfs, or make other Trespasses upon the waste, or build any House, or make inclosure of any part of it, it is inquirable.

Common.

15. Also, if any Tenant within this Mannor, which hath two Farms, one of them within this Mannor, the other within another Mannor; and at the time when the Fields and Meadows within this Mannor are laid open, he brings his Beasts within this Mannor, which he hath kept upon the Farm of another Mannor; and by this surcharge the Tenants within this Mannor: this chasing and re-chasing is inquirable.

Rechasing.

16. Also if any Tenant of this Mannor hath aliened any of his Lands in Mortmain; that is, to a Religious House, or to a Bishop, Parson, Vicar, and to their Successors, or to any other Corporation, where that shall go in succession, that is to say, to them and their Successors, without the License of the King, and the Lord of the Mannor, it is inquirable. That the Lord may make his claim within a year according to the Statute: Note, That by the Statute of *Religiosis*, the Lord may enter within one Year after the alienation; and if the Chief Lord immediate, be negligent, and do not enter upon this Fee within a Year, then it is lawful to the next Lord of that Fee, within the half year following to enter; and at the last the King: and if any make a Feoffment to one, to the use of a House of Religion, or to the use of a Company, or Brother-hood, this is Mortmain: the

Mortmain.

same Law is where one exchanges with a Corporation, that is Mortmain ; also, if any religious person hold of any man by Rent-service, and the Lord releases to him, this is Mortmain.

Who is Tenant.

17. And if any Tenant by Charter alien his Land, and hath not given Notice of that to the Lord, and the alienee hath not made Fealty to the Lord, nor Suit of Court, that the Lord may have knowledge, who is his Tenant, it is presentable ; for that he may know upon whom to make his avowry, and of whom to have his services and escheats.

Waste.

18. Also if any Termor for years, or for life, of any parcel of the Demesnes of the Mannor, hath made waste in any House, Lands, Woods, or Gardens, you shall present that, or if any holds two Tenements, and hath wasted one, as if he remove Trees from one to the other, that is waste.

Trespas.

19. Also if any Trespas be made in any Demesnes of the Lord, that is to say, in the Corn, Grass, Meadows, Pastures, Wood, Hedges, Waters ; or if any do Fish within his Rivers or Waters ; or if any Hawk or Hunt within the Demesnes of the Lord without his License, or within his Warren, these are presentable.

Trespas.

20. Also if any take any Honey or Swarms of Bees within the Demesnes of the Lord ; or take any Hawks, or Eerie of Hawks ; these are inquirable.

Rescous.

21. Also if any Bayliff or Officer make any Arrest for Rent, Custome or Service due to the Lord, and Rescous to him be made ; you ought to present the Name of him which made the Rescous ; and where and when it was.

Pound-breach.

22. Also if any Distress be put in the pound of the Lord, and be taken out without authority of Law, this is a pound-breach, and is inquirable.

Removing meersstones.

23. Also if any remove or take away any meersstones or stakes between this Lordship and another, or between Tenant and Tenant, you ought to present that.

Encroach.

24. Also if any hath encroached any of the Lands of the Lord, scilicet, Land, Meadow, Pasture, Wood, Furze, Moor, or any other vacant Land without the Lord's License ; by burning his Hedges, Pale, or otherwise ; that is inquirable.

Note, that all the void Land and Waste within the Mannor is to the Lord of the Mannor.

25. Also

The Charge in Court Baron.

115

25. Also if any within this Mannor, suffer any House of Husbandry, with which was occupied twenty Acres of Land, to decay, and to take from it any Land, the Lord of whom this is held, shall have the half of the Profits of this to his own proper use, till that be maintained again for Husbandry, 4 H.7. chap. 19. and 5 Eliz. chap. 2. and that for the benefit of the Lord is inquirable.

Husbandry;

Rastal,
Husb. i.
and 6.

26. Also if any Tenant hath enclosed any Land, and keeps that in severalty, (which was wont to lie open) without the license of the Lord, and other Free-holders, that is also inquirable, for that no Tenant of the Lordship shall lose his Common in that.

Common;

27. Also if any keep and withdraw any Evidences, Court Rolls, Rentals, or Evidences pertaining to the Lord of the Mannor, is inquirable.

Evidence of
the Lord
Punishment:
Copy-hol-
ders.]

28. Also if any thing pained before to be done, and is not yet done, in whose default that is, and you ought to present his Name.

29. Also if any Copy-holder lets his Copy-hold Land for longer time then for a year and a day, without surrender; unless it be by Custom, that he may lett for longer time: and if he do, it is Forfeiture, and inquirable.

30. Also if any Copy-holder make a change of the possession of this Copy-hold, for Charter Land, or otherwise, that the Lord may have a disadvantage; in mending of one, and impairing of another, that is inquirable.

31. Also if any Copyholder alien any of his Copy-hold by Deed, and make livery of seisin according to the Deed, it is a Forfeiture, and inquirable, *Lit. fol. 14.*

32. Also if any Copy-holder cut any Tree which is a Hedge-row, without license of the Lord; it is a Forfeiture, if not by the Custom of the Mannor used time out of mind; &c. This Copy-holder hath used to cut his Trees and Wood at his pleasure, it is inquirable.

33. Also if any Copy holder, which hath not his Wood by Custom of the Mannor to himself, but his Lord hath that there; if he lop any Trees of his Copy-hold in unreasonable time, by which that straveth; that is a Forfeiture, and is inquirable.

Note, That Tenant at will by the Common Law, may take House-boot, Hedge-boot, and Plough-boot, and cut

chire

that in seasonable time, and so may Tenant by Copy of Court-Roll do of a Copy-hold.

34. Also if any Copy-holder suffer his House which is Copy-hold to decay and fall down, or do not repair that, but suffer that to be uncovered, by which there is waste; that is Forfeiture and inquirable; if it be not by the Custome of the Mannor, that they may suffer their Houses to decay and fall down, and yet no Forfeiture by the Custom; and also in some Mannors the Tenants may suffer waste in their Houses, and also cut their Trees at their pleasures, and shall not be punished, for it is lawful by the Custome of divers Mannors.

35. Also if any Copyholder die seised of any Copy-hold, Who is his next Heir, and of what age he is; or, if any Copy-holder by the Custom of the Mannor, hath surrendered any Copy-hold into the hands of the Bayliff, or any Tenants, after the last Court to the use of another, for of every such surrender the Lord ought to have a Fine; and the parties in whose hands the surrender was made, ought to come to the next Court, and present the same surrender so taken, and give it into the hands of the Lord, to the use of the alienee, or otherwise he ought to Forfeit his Copy-hold; if he have not a reasonable excuse, inasmuch that he doth not bring in the surrender by him taken, but doth what lyeth in him to make the Lord lose his Fine, and also to dis-inherit the other party, to whose use the Surrender was made.

36. Also if any Tenant, which holds by Herriot-service or Herriot Custom, die seised of any Land or Tenements so held; and that a Herriot is due to the Lord; and also if any such Tenant hath aliened any parcel of his Land so held, the Lord shall have for every of their several parts, divers Herriots at their several deaths: as if a man hath two parcels of Lands held by Herriot-Service, and by several Titles, and die seised of the same, the Lord shall have two Herriots; and also you shall present if any herriot be carried out of this Lordship, by whom it is, and where they are.

37. Also you shall enquire, if any Tenant of this Mannor which ought, by reason of his Tenure, to make suit to the Lords Mill, do make Suit there, or not.

38. Also you shall enquire, if any one have fished, fouled,

*Suit to the
Mill.*

ed,

ed, hawked or hunted within this Mannor, or within the Demesns of the Lordship, without License of the Lord, and present their names.

39. Also if any have taken Pheasants or Partridges in their Nests, or the Eggs of them within the Demesns of the Mannor, or the Eggs of the Swans of the Lord, and present their Names.

40. Also you shall inquire, If all the defaults and plaints which were presented at the last Court, were sufficiently amended, or not; and, If all the Laws and Orders before by you made, be observed and kept, or not; and further you shall inquire of all other things, which in your conscience you believe to be convenient to be inquired of, and you shall bring in your Verdict in writing such an hour: and now you may depart, and inquire of your Charge, having regard to that which you have sworn; and note, that you keep well your Oath.

Hawkers and Hunters.

VV *Est. 1. ch. 1.* forbiddeth that none shall chase in anothers Park, nor fish in anothers River, and if he do, he shall be imprisoned and fined; and if none will sue, the King shall have the Suit as in a thing made against the peace, and the King shall make inquiry from year to year, &c. *Fitzh. 67. D.*

Westm. 1. chap. 20. It is provided for Offenders in Parks and in Rivers, that if any of them be attaint by the Suit of the Plaintiff, it shall be accounted good, and amends made according to the manner of the Trespass, and shall have imprisonment for three years, and then shall be fined; and if he hath not to pay a Fine, he shall be abjured or outlawed; and if the party sue not within the year, the King shall have the suit.

39 *H. 7. chap. 11.* If any person, not having a Park, Chase, nor Forest, keep any Nets, called Deer-Hays, or Buckstals, or stalk with bush or beast in anothers Parks, Chase, or Forest without License, he shall forfeit ten pound to any person which will sue for the same.

31 *H. 8. chap. 12.* Where Hunters in the day or night with vizards, or painted faces, it was Felony, now it is not.

5 Eliz.c.21. Every one which wrongfully taketh Hawks, or their eggs, by night or day, and be convict, shall pay treble damages, and suffer Imprisonment three years; but these Statutes aforesaid, are not inquirable in a Leet.

43 Ed.3. fol. 24. Trespafs, why by force of arms his Deer, price forty shillings (where it was wilde) he took, and the Writ abated, 13 Ed.4. fol. 14. the same.

3 H.6. fol. 58. Trespafs, he entred into his Warren, and took 1000 Hares, and doth not say, His, yet it is good.

Fitzh. 86 L. and 89. R. Trespafs lyeth by force of arms, the young Hawks of his Hawks, price so much, he took; and why he entred his Warren, and took Hares, Conyes, and Pheasants, and not saying, His; and good, for he hath no property, 22 H.6: fol. 65.

Doctor and Student, fol. 9. None hath property of Birds, Fowl, wilde Beasts of Forest and Warren; yet the Eggs of Hawks, Herons, and such like, are to them which owe the Land.

Fitzh. 67. No man shall be taken and Imprisoned for Ventr or Ventrson, if he be not found with the manner, or indicted, *Nat. Brev.* fol. 41. the same. See *Britton*, fol. 84.

18 Ed.4. fol. 14. Where a man licenses me to hunt and kill a Buck in his Park, my servant cannot come in by my Commandment; for the License shall be strict to him to whom it is given.

2 Ed.4. fol. 5. Trespafs, one cannot justifie by licence of a Keeper to kill a Deer.

16 Ed. 4. fol. 7. Trespafs, by force of arms he broke his Dove-house, and took his Pigeons in the same, and good; but not abroad when they are out, and have no mark, and are in the fields.

38 Ed.3. fol. 12. Trespafs, for entring into his Warren, and took his Pheasants; It was held, that if the Defendant fle a Pheasant in his own Land out of the Warren, and his Hawk fle and kill in another's Warren; his entry in o the Warren is a wrong.

Treheron in his Reading, shewed, That Forest ought to be by Commission and Proclamation, and that a common person cannot have a Forest; that is to say, cannot make a Forest, nor use Forest-Laws, as it is said: And to a Forest there are divers Officers, and to this is incident a Court of Swannimore, but a common person may have a Chase

Chafe or Park by Grant or Prescription, and Forest-Laws shall not be to a Chafe, nor Court of Swannimote, the Statute of 13 R. 2. is not inquirable in a Leet, but before Justices of Peace, that is to say, that it is that no Artificer, nor Lay-man, which hath not Lands to the value of forty shillings *per annum*; and no Clark which is not advanced to ten pounds *per annum*, shall not keep a Harrier, or other Dog to Chafe, nor shall use Ferrets, Hays, Nets, Harepipes, nor Cords, nor other Engines, to take or to destroy wilde Beasts, upon pain of Imprisonment for a year; yet it is inquirable in a Court Baron, if any Hunt or Hawk within a Park, Chafe, Warren, or Demefn Lands of the Lord of the Mannor, without his License, and for that something of that shall be said.

12 H. 8. fol. 3. Trespafs lyeth for taking a Hound or Deer out of the possession of the Plaintiff, and hath possession, and not property.

12 H. 8. fol. 10. One hath but possession of a Deer, and if they go out, catch that catch may: And if any Hawk kill a Pheasant in your Land, it seems that I shall have the Pheasant, and yet it seems that one cannot hunt nor hawk in anothers Land.

10 H. 7. fol. 30. Account lyeth against a Keeper for the Deer, for he hath possession as a Bayliff; one may grant liberty to one to take every year a Deer, or to the Keeper the shoulders of them killed.

13 H. 7. f. 10. Where a Deer is given to one, he may bring in his servants to take it, for otherwise peradventure he cannot serve his Warrant.

13 H. 7. fol. 13. It is said, if one hath License to chafe, he cannot kill, 18 E. 4. f. 14.

15 H. 7. fol. 16. Fine for hunting shall be greater then the Trespafs.

21 H. 7. fol. 30. It is lawful for one to kill a Hart out of the Forrest, though he be proclaimed.

12 H. 8. fol. 4. saith, That one may distrain a Breach, doing damage which enters into my Close to Chafe, 2 Ed. 3. tit. Distress 20.

48 Ed. 3. fol. 8. He that hath Land adjoyning to a Chafe, may hunt Deer out of his ground with a little Dog, but not with Begles; and by some, if the Dog follow them into the Chafe, and the owner drives them back, yet if they kill the Beast,

beast, trespass doth not lie. See 18 H. 6. f. 21. Held that if a man go in the way adjoyning to a Park, and his Dogs break his Leash, and kill a Deer in the Park against his will, and he call them back, he shall not be punished; but it seems that if he do not what he can to hinder them, it shall be a trespass.

Fitzh. 19. If one incite or procure his Dog to bite a man, he shall have his trespass upon that.

Assise.

INsomuch that an Assise is brought of a Copy-holder, something is to be oted nro you touching Assises.

And first I intend, that if a Copy-holder of Inheritance dieth seised of a Copy-hold, and his heir enter (as he may) though there be no Court kept, and he not admitted, and be outed by a stranger of that disseisin he shall have a Plaint in nature of an Assise. Yet *Quere*, for in 13 *Elix.* by the Justices: If Tenant by Copy of Court-Roll, dye seised, and his Heir enter and take the profits, he is no Trespasser, though the Lord hath not admitted him Tenant; and though no Court were held there in seven years: And further there said, that it was adjudged in the Chancery, That if Tenant by Copy of Court-Roll, hath two Daughters by divers Women, and they enter and take the profits, and one dyes before any Court held, now her Cousin collateral ought to inherit as heir to her, and not the other Sister as heir to the Father, which proves that this was a Seisin according to their Custom: The same Law is, if a Copyholder be admitted, and after is thrust out by another, or if another be admitted to it, and by this he that was first admitted, is thrust out by him which was secondly admitted, the first Admittee shall have a Plaint in nature of an Assise of that Disseisin.

Plowden, Com. fol. 528. Parson, before Induction, cannot grant an annuity, for he hath no possession; so it seems, if a Copyholder dye seised, his Issue shall not have an Assise before admittance. *Fitzh.* 177. A. Where Tenant for life in Fee-simple, or Fee-rail, is disseised of his Lands and Tenements, or outed of that against his Will, this

this is Disseisin, and he shall have an Assise of novel Disseisin, *Nat. Brevium*, fol. 107.

Fitzh. 195. C. Where my Father or my Mother, my Brother or my Sister, my Uncle or my Aunt, or Nephew or Niece, dye seised of any Lands, or Tenements, or of Rents, of an Estate of Fee-simple; now if a stranger take possession of this Land or Rent after their death, I which am their Heir shall have an Assise of Mortdancer, *Nat. Brevium*, fol. 118.

So for a Copy-hold in Fee, if my Father, Mother, Brother or Sister, Uncle, Aunt, Nephew, or Niece, dye seised of that, and a stranger enters, I shall have a Plaint and make protestation to sue in nature of a Mortdancer, and upon Disseisin as above, in nature of an Assise of novel Disseisin; and it seemeth I have not Seisin to maintain an action of my own Seisin in the Lords Court, unless I be Tenant to the Lord, and that is where I am admitted, for by the admittance of the Lord, it shall be said, (The Lord hath granted Seisin, and he is admitted Tenant:) And by this he is Tenant to have an Assise, and not before; yet before he may take the profits, though there be no Court to be admitted, for it was no folly in him; but may have his Action at the Common Law, upon the possession of his Auncestor, which was admitted, though I were not admitted: and so where my Father dyeth seised of a Copy-hold in Fee, and I am admitted, and after another makes claim to it, and is also afterwards admitted and enters, he cannot have a Plaint in nature of an Assise of Novel Disseisin against me, for 26 H. 8. fol. 3. if one be Admitted, Instituted, and Inducted to a Benefice, and after another be presented, and oust him, he shall have an Assise or Trespass, but he that is Presented cannot.

And so if there be Grandfather, Father, and Son, and the Grandfather was admitted, and dyes, and the Father enters, and dyes before admittance; the Son in this Case shall have a Plaint in the nature of a Writ of *Ayel*, and not an Assise of Mortdancer: and by the Statute of 32 H. 8. chap. 2. it is enacted, That no person shall sue, have, or maintain any Action for any Lands or Tenements upon his own possession, above thirty years next before that began. If the Lord of a Mannor grant by
Copy.

Copy. the Tenements of a Copyholder, without lawful cause in Fee, or for life, and the Grantee enter, he which hath right, may have an Assise against the Grantee if he were first admitted : As the King by his Letters Patents, grants to another my Land, and the Patentee enters by force of his Grant, I shall have an Assise : If a Copyhold descend, the heir shall have a Trespass at the Common-Law before admittance, as above.

Seisin of Assise.

what Seisin is sufficient to have Assise ; and what not.

THe Warden of an Hospital shall have an Assise of Rent, where his Predecessor was seised, and not himself ; for the Seisin of the Predecessor is the Seisin of the house, 15 Ed. 3. tit. 39. accordingly of an Abbot or Prior, Fitzb. fol. 179. c. and 8 Ass. 16. 3 Ass. 5. accordingly also of a Chauntry Priest, 34 Ass. 5.

Assise is not maintainable against him which hath but a Freehold in Law ; for of that Seisin an Assise doth not lie, and yet of that Seisin a wife shall be endowed, Litt. fol. 152.

If a man which hath a title to enter, set his foot upon the Land, and is outed, that is a sufficient Seisin to have an Assise, 22 E. 3. Br. Seisin, 52.

If one put in his Beasts to use my Common by commandment, this is a sufficient Seisin for me to have an Assise, 45 Ed. 3. f. 25. 22 Assise, 84.

Reversion is granted to J. S. and the Tenant for life at-torns and dies, and J. S. enters by the Windows, for that he cannot enter by the Door ; and when one half of his body was in, he was pulled out ; and yet that is a sufficient Seisin to have an Assise, 8 Book of Assises, fol. 25.

Seisin of Fealty, is not sufficient Seisin to have an Assise of Rent, but it is a sufficient Seisin to make Avowry for all, that is, as well for the Rent, as for the Fealty, 44 Ed. 3. f. 11. by Thorp, 3 Ed. 3. tit. 40. 3 Ec. 3. Itin. Norfolk, 20 H. 3. tit. 433, 49 Ed. 3. 15. and 45 Ed. 3. 18.

A Lease

A Lease is made for life reserving four Marks Rent, and the Less^r is seised of twenty shillings of that, and taketh distresse for the remainant, and Rescous is made; and though but twenty shillings be received, yet that is a sufficient Seisin to have Assise of all, 8 Ed. 3. fol. 12. tit. 141. 8 Aff. 4. 5 E. 4. 2. 12 E. 4. 7.

If the Lord of a Rent-service grant the service to another, and the Tenant attorn by a penny, and after the Grantee distrains, and the Tenant makes Rescous, here was no Seisin to have assise of Rent; but if the gift of a penny had been in the name of Seisin and Attornment, otherwise it is, fol. 2. Littleton, fol. 127. b.

Lord and Tenant are; the Lord grants the Rent of his Tenant by a Deed to another, Saving to him the Services; and the Tenant attorns to that; this is Rent-seck; and if the Rent be denyed at the next day of payment, he hath no remedy: but if the Tenant when he attorns, or after, will give a penny or a half penny in the name of Seisin of the Rent, then if after the next day of payment, the Rent be to him denyed, he shall have an assise; and that is a sufficient Seisin to have an assise for all the Rent, Littleton, fol. 42.

Seisin of parcell of Rent, is sufficient to have assise of all the Rent, 8. Book of Assise, 4.

Seisin of Fealty, is not sufficient Seisin to have an assise of Rent; but Seisin of Escuage, is Seisin of Homage, 21 E. 3. fol. 52. Nat. brev. fol. 109. 5 Ed. 2. Avarry, 209.

Using of Common by Tenants at Will, is sufficient Seisin for him in Reversion to have Assise of Common, If he or his Tenant at Will be disturbed, 22 Assise according Fitzh. fol. 180.

By Brudnel, Of a thing transitory, a man shall be in possession without seizure: As, if my Tenant dies, his heir within age, I shall have a Ravishment of Ward without a Seiser; but I shall not have an Ejectment of Ward of Land which is local, nor Assise of Land, without first having possession indeed, 14 H. 8. fol. 27.

If one recover and be put in by a Clod in the half by the Sheriff, and he against whom the Recovery was, will not go out, yet that is a sufficient Seisin to have an Assise, 2 Ed. 2. tit. Execution, 19.

If a man holds of the King in Chief, and holds other Land

Pleas of Assise by Bayliff.

Land of another Lord, and dies, his heir within age, which intrudes at his full age, and payes his Rent to the Lord, this is a good Seisin to have an Assise, notwithstanding that he hath not sued Livery, for the Signiory was not suspended by the possession of the King, but only the distress; for after Livery, the Lord may distrain for his arrearages, 34 H.8. Tit. 48. 47 Ed. 3. fol. 12. and 13 H. 7. fol. 15.

Pleas of Assise by Bayliff.

Also it is expedient for you to know what Pleas the Bayliff in Assise shall plead; and what the Disseisor, and what the Tenant after the Bayliff hath pleaded.

Bailliff may plead a Plea which is triable by Assise, and none other, 6 H. 7. fol. 15.

Pleas of a Bailiff ought to be such which are triable by the assise, and for that he cannot pray aid of the King, 8 H. 7. fol. 12. and first Book of *Assises*, 1. accordingly.

The Bailiff shall have any Challenge to an array, and to the heads, 9 H. 7. fol. 24. and *Abridgment*, Book of *Assises*, fol. 48. the same.

The Bailiff may plead Non-tenure or Mis-naming of the Plaintiff, but not of his Master, and conclude, *li, &c.* 22 H. 6. fol. 44. 9 H. 7. fol. 24. 26 Aff. 61.

Bailiff may plead, That the Tenements are in another Town, for that is an abatement, 9 H. 7. fol. 24. *Abridgment*, *Assise*, fol. 47. and 6 H. 7. fol. 15. accordingly: But 22 H. 6. fol. 50. seems contrary; but a Bailiff cannot disclaim, but an Attorney may, 13 Ed. 3. Tit. 8.

Bailiff pleads out of his Fee, Judgment if without specialty, &c. and he cannot have that at this day; but in 2 Ed. 3. Tit. 10. he hath this Plea, for the Bailiff cannot have any Pleas, but where he may conclude over; and if it be not found no wrong, no disseisin, &c. See the *Abridgment*, Book of *Assises*, fol. 47. and 2 *Assise*, 4.

Bailiff may plead ancient Demesne, and conclude, If it be not found, &c. and conclude to assise; otherwise, Bailiff cannot plead ancient Demesne, for that, that it is triable by

by the Book of *Dooms-day*, and for that he cannot conclude Judgment, if the Court will acknowledg, *Abridgment Book of Assise*, fol. 48. and 9 *Book of Assise*, 2. See 6 H. 7. fol. 15.

Bayliff may plead, That the Plaintiff is seised the day of the Writ purchased, and every other exception triable, by Assise, 9 Aff. 4.

Bayliff cannot plead, That the Writ is purchased, hanging another Assise, nor not attached by fifteen dayes; for it is triable by the Record; *Abridgment of Assise*, fol. 48. 8 Aff. 2. & 8 Ed. 3. Aff. 40.

Bayliff may plead, That his Master is Parson of D; not named Parson; and if it be not found, no wrong, &c. 12 Aff. 4.

Bayliff may plead Misnaming and Joynt-Tenancy without Deed, 6 H. 4. fol. 15. and 8 H. 6. f. 56.

Bayliff cannot plead Excommunication or outlawry, in the Plaintiff, for he cannot plead a Dilatory Plea, unless it be triable by the Assise, and that he may conclude; and if it be not found, no wrong, no disseisin, 5 Ed. 4. fol. 113.

Bayliff may plead, Not attached, by fifteen days, *Abridgment of Assise*, fol. 47.

Pleas of the Disseisor.

THe Disseisor may plead Release of Actions personals in bar, but not Release of Actions real; for none shall plead that but the Tenant, *Litt.* fol. 215.

The Disseisor may plead, That the Demandant hath entered, hanging the Writ; notwithstanding that, he goes to the Tenancy; and the reason which is there made, is; for that that such Plea goes to excuse him of damages: And note, That there it appears also, that the Disseisor shall plead every bar, unless such a bar which goes to the Tenancy, or to extinguish the right of the Plaintiff in the Land; as, if he pleads release of all Actions personals, or that the Plaintiff hath entered, hanging the Writ, that he may plead; but he cannot plead release of right made to the Tenant of the Land, nor other Plea which goeth to the Land, but he shall plead every plea to the Writ.

Writ which doth not extend to the Tenancy, as if he had no Tenant named in the Writ, or no such in *Reum natura*, and mis-naming of the Plaintiff, or of himself, 33 H. 6. fol. 13. Contrary, 37 H. 6. 3. by *Choke*, Therefore *Quere.*

The Disseisor shall not plead any Plea to the Tenancy, which the Tenant by his admittance hath made good, 26 *Book of Assises*, 49.

Disseisor cannot plead in abatement; That the Plaintiff hath a Writ of an older date, hanging against him, 45 Ed. 3. fol. 25. and 23 *Ass.* 14.

Disseisor cannot plead ancient Demesne, without taking the Tenancy upon him, 21 *Ass.* 2.

Disseisor cannot plead Record or Estoppel, for by the failing of the Record, he cannot lose the Land, 20 Ed. 3. *Brook*, *Assise*, 403.

Disseisor shall plead mis-naming of the Plaintiff, and also that the Plaintiff is covert of Baron; and if he alledge outlawry in the Plaintiff, he ought to have the Record in hand. And note, That the Disseisor in proper person, or by Attorney, and not by Bayliff, pleads, That the Plaintiff hath another Assise hanging against him, as it appears, 8 Ed. 3. *Ass.* 140. See 18 *Ass.* 38. 34 *Ass.* 91. and this seems by the Statute of *Westm.* 2. chap. 15. 19 *Ass.* 10. and 20 E. 3. *Ass.* 20.

Disseisor may plead Entry of the Plaintiff after the last continuance and joynt-Tenancy; for he may plead all Pleas which excuse him of damages, or which are in Bar, which do not extinct the right of the Land, 35 H. 6. fol. 16.

Disseisor may plead Outlawry in the Plaintiff, that is, where the Tenant hath not pleaded and admitted the Writ, 29 *Ass.* 61. and 20 Ed. 3. *Ass.* 20.

It is said by *Babington*, That a Disseisor cannot plead any Plea in Barr, but no wrong, or that it ariseth to so much. 2 H. 6. fol. 1.

Pleas by Tenant.

where after a Bayliff hath pleaded, or the Tenant himself; and the Assise upon that adjourned, or awarded, or hath imparled, the Tenant cannot plead new matter, unlesse it be matter of a later time, or a matter pursuant, or a matter upon which he may have Certificate, or the general Issue.

THe Tenant pleads to the Assise by Bayliff, and the Assise awarded, the Tenant can plead no Plea in Bar afterwards, but such upon which he may have Certificate of Assise, 10 H.7. fol.12. 8 Ass. 17.

The Tenant pleads by a Bailiff, and the Assise remains for default of Jurors, and now the Tenant comes in proper person, and saith, The Plaintiff hath received the Tenelements of him, hanging the Writ, and hath let to him for years, and hath, for that he cometh in of later time, 18 Ass. 24. 18 Ed.3. fol.33.

If a Plea be pleaded, and the Justices dye, all shall be pleaded anew; but if they be at Issue, that shall stand, 5 H.7. f.7.b. by Hussey.

After adjournment upon the Plea of the Bailiff, the Tenant may plead matter which comes of later time, 18 E.3. tit.33.

The Tenant himself, after the Assise awarded, may leave his Bar, and plead the general Issue; but he cannot plead a new Bar after Issue, 34 H.6. fol.10, and 29. 40 Ed.3. fol.48. b.

The Tenant pleads in Bar, and after the Jury hath the View, and he leaves his Bar, and pleads to the Assise, 34 H.6. f.29. and *Abridg. Ass.* f.138.

Where they are adjourned upon a point certain, he cannot plead a new Plea afterwards, unless pursuing; as, if the Tenant himself before adjournment, had pleaded special Bastardy, he may plead afterwards general Bastardy, 42 Ed.3. fol.12.

After adjournment upon a Plea in Bar certain, he cannot plead new Plea in Bar, but only the general Issue, 8 Ass. 10, & 10 E.3. tit.157. and 44 Book of Ass. 1.

Where

Where they are adjourned upon a Plea in abatement, and after the Writ is awarded good, he may afterwards plead in Bar, 6 Book of *Assise*, 1.

Infant in Assise pleads Outlawry of Felony in Bar, and at another day was suffered to plead release of the Plaintiff in Bar. 14 Ass. 15.

Assise, the Tenant pleads in Bar, and the Plaintiff joyns Issue, and the Court do not take the Assise the same day, and the next day the Tenant cannot change his Plea, 11 H. 4. fol. 2. B.

Where the Tenant pleads to the Assise by a Bayliff, if his Master have a Release or a Writing, of which the Jury cannot have notice; then if the Assise pass against the Bayliff, yet the Master shall have certificate upon this Writing; the same Law is, if the Verdict be not well examined by the Justices; And see more there, *Fitzherbert*, fol. 181. B.

The Tenant pleads in Bar, a Deed of the Ancestor of the Plaintiff with Warranty, and the Plaintiff makes Title, and afterwards he cannot plead an abatement, that the Lands were in another Town, for that, that the Assise was awarded, 10 Edw. 3. Tit. 157. and 1 Ass. 17.

The Tenant pleads in Bar, and the next day pleads by a Bayliff to the Assise, and may, for that the Assise was not awarded, *Abridg. Ass.* f. 47.

Where the Assise was awarded upon the Plea of the Bayliff; at another day after, the Tenant comes and pleads a release, and hath it, for that he may have Certificate, *Abridg. Ass.* f. 138.

The Tenant may relinquish his Bar, and plead the general Issue; otherwise it is in Cosenage, Grand-Father and great Grand-Father; but he cannot plead a new Bar, 40 Ed. 3. fol. 49 Ass.

Assise, The Tenant pleads in Bar the Deed of the Ancestor of the Plaintiff with Warranty, and the Plaintiff makes Title, and after the Tenant waves the Bar, and pleads in abatement, That the Lands are in another Town, and cannot, 1 Book of *Assises*, 16.

Assise, If a Plea be pleaded, and the Justices die, all shall be pleaded anew; but if they are at Issue, they shall stand, 4 H. 7. fol. 7.

where

where in an Assise a man shall have divers Pleas to the Writ, and conclude over, no wrong, no Disseisin; and where not.

NOw, that the party himself, or his Bayliff may have divers Pleas; where one is not contrary to the other, concluding over, no wrong; as if he plead mis-naming of the Plaintiff, if it be not found; no Tenant of the Freehold named in the Writ; and if it be not found, no such Town, and such like: and notwithstanding, and if it be not found, no wrong, for one is not contrary to the other; but if he will say, that the Tenements are in another Town, and if it be not found no Tenant of the Freehold named in the Writ; and if it be not found no wrong, these Pleas he shall not have, for he shall not plead no Tenant of the Freehold named in the Writ, &c. and after say the Tenements are in another Town.

Note, though the Book at large be; if it be found leaving out this word (Ne); yet the Book of Entries is, (if it be not found) and so it seems in reason that it shall be as above, if it be not found; &c. 36 H. 6. fol. 1.

Where one pleads to a Writ, and also in Bar; which Bar is that which doth not go to the point of assise, *scilicet*; no wrong, but it is a Bar out of the point of assise: In such a case he shall not have both the Pleas; for by such Bar the Plea to the Writ is waived. As in assise of Rent, the Tenant pleads wrong, naming of himself; and if it be not found, our of his Fee, he shall not have these two Pleas, 3 Ed. 3. 15. tit. 172. tit. 223.

It seems if the Tenant Plead in the abatement of the Writ, he shall not plead over to the assise, if his plea to the Writ be not triable by the assise, 22 Book of Assises, 14.

In an assise of Rent, the Bayliff pleads mis-naming of the Town; and if found not so, &c. that another is Tenant of the Rent, nor named, for this is not contrary; and it seems that in assise of Rent, the Tenant of the Land may say, that the Land where our, &c. is in another Town; and if found it be not, that he hath a taker of the Rent not named; contrary it is in an assise of Land, 15 Ed. 3. Tit. 95.

In assise by a Master and his Brethren of the fraternity
K of

of nine Orders of Angels in the County of *Middlesex*, Defendant pleads no such Corporation by that name in this County; and if it be not found no wrong, he shall not have them both; for the first Plea is in bar; and shall not have bar and general Issue, 22 Ed. 3. fol. 34.

Assise of Lands in Woxbridg, the Tenant pleads, That they are in Collam, and not in Woxbridg; and if it be not found no wrong, and he hath, 11 H. 4. fol. 2. B.

It is said, That in an Assise, the Tenant or his Bayliff may plead twenty several matters in an abatement, or to an Assise, and conclude if it be not found, &c. and is good, 1 Ed. 4. fol. 4. and 8 H. 6. fol. 9.

Where the Assise shall be awarded at large; that is to say, in point of Assise; that is to say, to enquire of Seisin and Disseisin; and where in right of Damages; and where not.

Assise, the Tenant pleads in abatement, That the Plaintiff hath received the Land of him hanging the Assise, and that he hath let to him for years again, and the Plaintiff saith, That he hath continued his Estate which he had by Disseisin, without that, that any estate present of him he take, and the Assise was charged upon the point, and over upon the Seisin and Disseisin, 10 Book of Assise, 24.

If the Tenant plead in Bar, and the Plaintiff makes title, and the Tenant doth not traverse that, the Assise shall be awarded at large, 45 Ed. 3. fol. 24.

Where there is a good bar pleaded, and an outing is confessed, and the bar is traversed; or if the Plaintiff make title, and that is found for the Plaintiff; or if there be an ill bar pleaded, that the Plaintiff need not answer; but say, Come the Assise upon the title, and it is found for the Plaintiff; in all these cases the Plaintiff shall have Judgment without enquiring of Seisin and Disseisin, 6 H. 7. fol. 2.

Where the Plaintiff makes title at large without answering to the barr, and the Tenant doth not traverse this title, he shall not answer to that, as that confessed and avoided, or without saying, Let the Assise come upon the Title, but let the Assise run without any thing saying to the Title; there the

the Assise shall be taken at large, and not upon the Title ; as in the assise the plaintiff makes title at large, and in the end saith (and this he is ready to aver by assise, and the aforesaid Tenant likewise) the assise shall be taken at large, the reason as above, so it shall be done as it seems, where the title is no title at large, but such which confesseth the Bar and avoids it, and so it is held by *Shard*, 28 assise 24.

Contrary Law is, if the Plaintiff in his title traverse the Bar, and the Tenant lets the assise run. there the assise shall be taken to inquire of the thing traversed, and also his title as it appeareth, 26 Ed. 3. f. 61.

And the reason of this seems to be, for that, that in assise the Plaintiff shall be received to traverse the Bar without making Title, and so the title there material ; and so note, that the Assise shall not be awarded at large, but in such a case where the title is not material, 45 Ed. 3. fol. 24.

When the Assise is taken at large, if they finde another title, the Plaintiff shall recover, and the Assise if they will may inquire only of the Seisin and Disseisin, without being charged or compelled to find any title, as in Assise nothing is pleaded but no wrong, here the Assise may find title if they will ; or otherwise say nothing but of Seisin and Disseisin : And also note, That in these cases before, the assise is awarded at large, without inquiring of the Bar.

And the reason is, because the Bar is waived ; the same Law is, where the Bar is not good, and the Plaintiff makes title, accepting the Barr, 28 Assise 17.

If the Bar be ill pleaded, and the title good, the Assise shall be awarded in point of assise, and not upon the title ; for if it be pleaded ill on the part of the Defendant, the assise shall be awarded in point of Assise ; that is to say, of Seisin and Disseisin, 35 H. 6. fol. 54. by *Fortescue* ; and 33 H. 6. fol. 40. by *Littleton*.

The Tenant pleads forrein release, and it is found against him, notwithstanding the Deed of the Plaintiff, now the Assise shall be awarded in the right of the Damages, for an outing is confessed implicatively, by pleading a Release, 23 Ass. 11. 8 Ass. 11. but 30 Ed. 3. Fitzh. Ass. 100. The Assise shall be taken at large.

The Tenant pleads Deed of the Ancestor of the Plaintiff in Bar, and found false, by which it was inquired

inquired only of Damages, 17 Book of Assises 13.

The Tenant pleads Forrain Release in Bar, upon which they were adjourned; and the Defendant makes default, by which the Assise was awarded at large: See 26 Book of Assises 30. 30 Ed. 3. tit. 100. and 17 Book of Assises 31. Notwithstanding it seemeth where an outing is confessed, directly or impliedly, and found for the Plaintiff, the Assise shall be awarded to inquire of Damages, and not upon the Seisin or Disseisin onely.

If the Tenant plead a dying seised, and doth not acknowledge an outing, Seisin and Disseisin shall be inquired, 8 Hen. 4. 51.

When an Infant brings an Assise, and the Tenant pleads a Deed of his Ancestor, then the Assise shall be awarded to inquire at large, *Natura Brevium*, fol. 189.

In point of Assise it is, When the Tenant pleads no wrong, no Disseisin; and out of the point is properly when the Tenant pleads Forrain Release, or Forrain matter tryable in another County, and in right of Damages is when the Tenant acknowledgeth over, and pleads matter which is found against him, or acknowledgeth over, or demurs in Law, and that is adjudged against him; now the Assise shall be taken in right of Damages, 15 Aff. 3. 18 Aff. 8. 23 Aff. 36. 26 Aff. 41. 28 Aff. 15. 28 Aff. 14. 17 b.

If the Tenant plead Release, and the Assise found for the Plaintiff, the Assise shall be awarded in right of damages; the same Law is, if the Tenant plead Record, and fail of that, the Assise shall be awarded in right of Damages, 8 Book of Assises 10.

The Tenant pleads Forrain Release, by which they were adjourned in Bench, and found not his Deeds; and the Plaintiff releases his damages, and hath Judgment forthwith, 6 Book of Assises 4.

The Tenant pleads Forrain Release, in which are witnesses, and process was awarded against the witnesses which makes default; and the Assise was awarded in point of Assise, 18 Book of Assises 3.

Where the Tenant pleads a Record, and fails of that by the Statute the Assise shall be awarded in right of Damages, 27 A. 1. 17 Aff. 2. 13 Aff. 15. and 16. and 23 Aff. 3.

Note, that in Assise, where the Plaintiff makes title at large without answering to the Bar, and the Tenant does not
traverse

traverse the Title, nor answer to it, as to confes and avoid, in saying, Comes the Assise upon the Title, and lets the Assise run, without saying any thing to the Title, there the Assise is taken at large, and not upon the Title; as in Assise, the Plaintiff makes Title at large, and in the end saith, he is ready to affirm this by Assise, and the aforesaid Tenant likewise, 28 Ass. 24.

If the Tenant acknowledge an ouing in his Plea, the Assise shall be awarded in right of Damages, 1 Hen. 6. fol. 5.

6 E. 3. fol. 418. Assise against two, if one take the entire tenancy, and plead in Bar, and the other make also the Plaintiff choose his Tenant; the same Law, if one plead no wrong, and the other plead a Bar, without that, that the other hath nothing, and every one take the entire Tenancy.

In Assise against many, where the Plaintiff ought to choose his Tenant at his peril, and where not.

Assise against two, if every one of these take the whole Tenancy, and severally plead in Bar to the whole Tenancy, the Plaintiff ought to choose his Tenant at his peril; but if one plead in Bar, and the other acknowledge the Action, or saith nothing, it is otherwise, 33 H. 6. fol. 36. and 37.

Assise against two; it seems if one plead in abatement, and the other in Bar; if the Plaintiff mischoose his Tenant, it is not material, but he shall answer to the Plea in abatement; but divers seem the contrary: and it seems if both plead in abatement, he ought to choose his Tenant at his peril. See 8 Book of Assises 1. and 44 Edw. 3. fol. 23.

Assise against two, each takes upon him the whole tenancy, and pleads in Bar, the Plaintiff mischoose his Tenant and was barred by opinion, 20 Book of Assises 4.

Assise against two; one takes the tenancy and pleads no wrong, and the other takes the tenancy without that, that the other hath any thing, and pleads in Bar, there the Plaintiff shall be constrained to choose his tenant at his peril, as

well as if both had pleaded in Bar, and had accepted the Tenancy severally; and if it be found that he mis choose his Tenant, the Writ shall abate, but he shall not be barred, 9 Ed 3. tit. 384.

The Plaintiff was admitted to choose his Tenant after adjournment, 23 Af. 16.

Affise against two, each takes his Tenancy, and pleads; it seems here, that the Plaintiff at his own peril shall choose his Tenant, and that shall be first inquired; and by some, if he mis-choose his Tenant, the Writ shall abate, 8 Af. 1.

Affise against two, one pleads, that he is a Villain of J.S; and the other by Bayliff pleads to the Affise, and the Plaintiff chose him which pleads by Bayliff to the Affise for his Tenant, and prays the affise, and he comes and pleads in Bar, and was suffered the same day, 22 Book of Affises, 7.

Affise against an Infant and two others; where each one severally takes the whole Tenancy upon him, and pleads in Bar, the Plaintiff shall choose his Tenant at his peril, and he chooseth the infant for the Tenant, and the Tenant and they found the Infant Tenant, and the two others Disseisors also, and the Plaintiff recovers; but it seems there if he mischoose his Tenant, the Writ shall abate, and for that, that the Disseisin was made to the use of the Infant, which did not enter, and is Tenant only by agreement, for that it seems it is here an Error to adjudge the Infant Tenant, which had nothing but by agreement to the Disseisin, 3 H. 4. fol. 16.

If the Plaintiff choose one to be his Tenant of all, which is not Tenant, the Writ shall abate, *Abridgment of the Affises*, fol. 41. B.

By *Fortescue* in affise against two, one takes the Tenancy severally, and pleads in Bar, the Plaintiff shall not answer to their Pleas in Bar, nor to none of them, but first shall choose his Tenant, then after may the Plaintiff answer to his Bar sufficiently in time; and if he ill chose his Tenant, the Writ shall abate, *Abridgment of the Book of Affises*, fol. 116. 2.

¶ Retorn dassise vers J. S.

¶ Pleg. de Prof. $\left\{ \begin{array}{l} \text{Adam Clarke,} \\ \text{David Parke,} \end{array} \right.$

INfra nominatus J. S. attachiat est per unum Bovem
pccii viginti solidor.

Residuum executionis hujus q̄rele, & (devant Justic^r
dass.) hujus brevi, patet in quadam scedula huic brevi
ānex. J. D. Armig. vic^r.

¶ Le Panell.

¶ Recogñ ass. nove disseisine inter J. D. querentē, &
J. S. deforc^r, de liber tenemento in D. Et donques nomina
recogñ sequūtur; Et apres.

Sun Jūr predictorū, & $\left\{ \begin{array}{l} \text{Johñs Hart,} \\ \text{Ric^r Smart.} \end{array} \right.$
eorum cujuslibet,

Manuc^r sun Jūr predictorū, $\left\{ \begin{array}{l} \text{Johannes Doo,} \\ \text{Christop. Croo,} \\ \text{Johannes Den,} \\ \text{Richard^o Fen.} \end{array} \right.$
& eorum cujuslibet,

Ceo per Plow. Con. fol. 73. & 7. lib. Ass. 12.

*What is a good Title in Assise for the Plaintiff;
And what not.*

TENANT pleads in Bar, it is no title for the Plainti^r to
say, that he was seised till by the Tenant disseised,
and traverse the Bar, without conveying unto him
possession by title before his possession, as by Feoffment
or otherwise; 27 H. 6. fol. 2.

Tenant pleads a Feoffment made by J. S. to him, and
gives colour; Plaintiff saith, That J. D. levied a Fine upon
release to him, and it is not good, but to say, that he was

seised, and levyed a Fine; otherwise, the title is good: so if he be intituled by Feoffment, or recover of a stranger, he shall say for title that the stranger was seised, and enfeofed him, 10 H.6. fol. 22.

Where the Bar is material, as dissent, Feoffment of the ancestor, the Plaintiff with Warranty, Recovery, Fine, &c. Plaintiff shall not make title at large, but ought in his title answer the Bar, as confess or avoid, or traverse it; but where it is a Bar at large, he may make title at large, without answering the Bar, 34 H.6. fol. 46. 35 H.6. fol. 67. and the Book of Entries 120. 5 H.7. fol. 29.

Where the Bar is not sufficient, the Plaintiff may demur, and need not to make title; and where the Tenant in his Bar gives sufficient title to the Plaintiff, Plaintiff need not make title; as if the Tenant saith, that his Father had him eldest, and the Plaintiff youngest; Plaintiff may say, that the Tenant is a Bastard without making title, and is good, 20 H.6. fol. 38, and 39.

Where the Plaintiff makes title at large, the Tenant may say, Come the Assise upon the Title, and is good, 15 H.7. fol. 13.

The tenant pleads, that he recovered against J.S. and the Estate of the Plaintiff mean by abatement upon J.S. hanging the Writ; Plaintiff saith, that long time before the Writ that he himself was seised, and good, without shewing how he came to it, for the Defendant hath given to him possession; see 9 Book of Ass. 10.

The tenant pleads Feoffment of the Grand-Father of the Plaintiff with Warranty; Plaintiff saith, that his Grand-Father was seised, and he as Cosen and Heir to him entred, and is without shewing how his Grand-Father came to it. See 10 Ass. 23. 9 Ass. 11.

The Tenant pleads in Bar, the Plaintiff intitles himself by Release, with collateral Warranty, and it is good, 17 Assise 18.

38 H.8. tit. 3. 26. Br. tit. traverse, P. 26. If the tenant plead, that his Father was seised in Fee, and by protestation died seised; it is said, that the Plaintiff may make title by a stranger, without that, that the Father of the Tenant was seised in Fee.

5 H.7. fol. 29. Where the Bar is material, the Plaintiff

tiff shall not make his title at large without answering to the Bar, but in Assise, 34 H. 6. fol. 24.

11 H. 7. fol. 28. If the bar be ill, the Plaintiff may pray the Assise without title.

6 Assise Tenant pleads Fine of an Ancestor of the Plaintiff, to which the Plaintiff saith, the same Ancestor had but for life, the reversion in him, and that he entered by forfeiture, and good, without shewing how he had the reversion.

Nat. brevium, 109. If the Tenant pleads Plea in Bar, and the Plaintiff makes him title and reverseth the bar, although the title of the Plaintiff be false, yet the Tenant shall not have advantage to take the Assise upon the Title, but he shall be driven to maintain his Bar; otherwise it is where the Plaintiff makes him title, and doth not answer the Bar.

Abridgment of the book of *Ass. fol. 81*. Where the title is found for the Plaintiff, and there is no Disseisor, the Writ shall abate.

The Tenant saith, That J. S. held the Land of him and dyeth without Heir, by which he entred, as in his Escheat, and gives colour, &c. the Plaintiff saith, one H. enfeofed him, and it is no title, for he ought to answer to the bar as well as where the Tenant makes title by descent, 27. Assise 71.

Assise of Rent, it is no title to shew that J. S. granted to him the Rent by Deed or by Fine, but he ought to shew how the Rent began, that is to say, if it be a Rent-charge or a Rent-Service, or a Rent-Seck. 31 Ass. 16.

Assise the Tenant pleads in bar Feoffment of the Father of the Plaintiff with warranty, and the Plaintiff saith, that his Ancestor dyed seised, and this descended to him, and allowed by Scroop without shewing how he came to that afterwards, 10 Book Ass. 23.

Where the Tenant prays the Assise upon the Title, and upon that the Assise is awarded, the Assise cannot find other Title for the Plaintiff, but he may find matter which may stand with the same title to inforce; but if the title be traversed, he cannot find another title, but only the point put in the Assise, 28 Book of Assises 17.

An Act of Parliament, Fine, or Recovery are of such a force, that if one be bound by them, the Plaintiff cannot make

make title to this Land unless by reason of a Title to him grown of later times. As if one recovers against me or my Ancestor, and hath execution, and after I enter, and dye seised, my heir shall not make him title by his descent, against the recovery, without shewing he hath title after the recovery, the same Law of a Fine, see 10 H. 7. f. 5. 32 H. 6. 5. and 33 *Book of Assises*, fol. 12.

Pleas in Bar and in Abatement.

IT seems a Feoffment of the Plaintiff is no plea in Bar, for that amounts to no wrong, nor Disseisin, 2 H. 4. f. 20. the same, 15 Ed. 4. f. 11.

15 Ed. 4. f. 11. A Lease for years, or for life, the Reversion to the Plaintiff or Feoffment of the Plaintiff with warranty, and rely upon the Warranty is a good Bar.

Abridgment of Ass. fol. 31. The Tenant may plead, that partition was made between the Plaintiff and J. S. whose Estate he hath, and it is a good Bar.

30 H. 6. f. 1. Assise, The Tenant saith, that the Lands put in view and in plaint are in another Town, and if it be found, no Tenant of the Freehold named in the Writ, &c. By the Court he shall not have the second plea, for none may say that the Land is in another Town, but the Tenant, and so hath accepted the Tenancy by his Plea.

30 H. 6. f. 7. Assise, The Tenant saith, That T. B. was seised and disseised by W. W. to whom T. B. made release, and against his own Deed disseised W. W. and infeoffed five persons, which infeoffed the Plaintiff, upon which W. W. re-entred, whose Estate the Tenant seised hath, it is good, see pleas in Bar, tit. Abridg. Ass. f. 30.

Abridgment Assise, fol. 41. If the Plaintiff choose one to be his Tenant of all, where he is not, the Writ shall abate.

Abridgment of Assise, fol. 42. A man cannot plead in Assise that there is another hanging, to which he hath appeared, unless that he take the Tenancy upon him, and for that it is no plea for the Disseisor.

Abridgment Assise, 44. Death of one of the Tenants shall not abate the Assise, but for the Portion, if he be a Disseisor, and Tenant of another parcel, 27 Ass. 45. 40 Ass. 15.

Abridg-

Abridgment Aff. fol. 43. Assise of Tenements in D. and S. the Tenant sayes that all is in S. if that be so, the Writ shall abate, for he cannot abridg a whole Town; but see now by the Statute of 21 H. 8. chap. 3. where he may abridg.

Abridgment of Aff. fol. 45. Assise of Lands in D. is no plea if there be two dayes, for that the Plaintiff shall recover, by the view of the Jury, 29 Aff. 59.

Abridgment of Aff. 106. Assise, Tenant pleads in Bar, and after the Jury hath the view, he leaves his Bar, and pleads to the Assise.

Plaint in Assise.

PLaint of profits of an Office, though it hath no form, it shall not abate; as first, It ought to suppose Disseisin, and after shall make title; and though it were not so, it shall not abate, 12 H. 6. f. 22.

Plaint of a Croft is good, but Precipe of a Croft is not good, Abridgment of Assise, fol. 130. b. and 8 H. 6. fol. 3.

Time of Ed. 6. Brook. Tit. False Latine and form, 66. Wood was put before Pasture in a plaint of Assise, and exception thereof taken, yet good, though it were contrary to the Register, by the Commentaries, fol. 169.

Plaint of a Croft, and was amended, 14 Aff. 13. and 25 Ed. 3. tit. 25. the same, Brook. demand. 17. 34.

Plaint of a piece of Land, containing in length twenty feet, and in breadth ten, and is good, 14 Aff. 13. and 9 H. 4. fol. 3. the same.

Plaint by the Governour of an Hospital; it shall be of a house, and not of an Hospital; 8 Aff. 29. and Assise 137.

Plaint of two parts of Salt Coor, is good, ninth Book Aff. 12.

Plaint of a Garment, or thirty shillings, though it be uncertain, for that it is according to the Deed, it is good, 11 Book of Aff. 8.

Plaint in Assise of a Garden lyeth, but not a Precipe, 22 Ed. 3. tit. 22. 5 Ed. 2. Brook demand. 39. and Fitzh. Brief 797.

Plaint

Plaint in Assise.

Plaint was of a Mill, and doth not say, a Water-Mill, nor Wind-Mill, yet good, 21 Assise 23.

Plaint of a Garment, and the specialty is of a Garment with fur, and the Plaintiff good, for the garment contains all, 22 Ass. 10.

where the Plaintiff may abridge in Assise; and in what other actions he may abridge, and how.

IN a Writ of Ward, the Writ is (of the custody of the Land and Heir) and is not certain, and for that he may abridge as he may in Assise and Writ of Dower, 39 Ed. 3. Tit. Brief 10. and 32.

In trespass, the Writ is (of Goods and Chattels,) and he counts of Corn, and ten pounds, and for that that Money is not (Goods and Chattels) he abridged it, sec. 8. tit. Abridgement 11. which saith, that he ought to expresse the money in the Writ, and for that he did not, he abridged, 39 Ed. 3. tit. Brief. 11.

In all cases where the Writ is (of a Free-hold) and uncertain, he may abridge by June, as in Assise of Dower; and a Writ of Ward, 14 H. 6. fol. 4.

In Ward for that demand is not uncertain, but of the (custody of the Land and Heir) therefore the Plaintiff counts of the Mannor of D. and twenty acres, and the Defendant saith that the twenty acres are parcell of the Mannor, the Plaintiff may abridge the twenty acres, 39 E. 3. fol. 10. Brooks abridgement 10.

Assise of Land in great Dunmow and litle D. you cannot abridge all in one Town, 8 H. 6. fol. 46.

Assise, and in Dower he may abridge, but he cannot abridge a whole Town. 14 H. 6. fol. 4.

Assise where a plaint is of a Mannor, he cannot abridge, for that it is entire 19 H. 6. fol. 13. 33 H. 6. tit. abridgement. 2.

Assise, plaint of Rent and Land, after that the Tenant hath pleaded in bar, the Plaintiff shall abridge in right of the Land, 14 ass. 9.

Plaint abridge in attaint, 35. H. 6. fol. 13.

Assise of Common in forty acres, the Plaintiff cannot abridge, for that that the Common is intire but at this day it is contrary by the Statute of 31. H. 8. chap. 3. 29. ass. 10.

Plaint

Plaintiff in every Assise at his pleasure may abridg, and for that also by the Statute may abridg where the Plaint is of a Mannor, 21 H. 8. chap. 3.

After the Verdict he cannot abridg.

IT is said, That after Verdict the Plaintiff cannot abridg his Plaint, 28 Aff. 38.

Dower demanded may abridg after View, Ed. 3. f. 3.

Assise, they were adjourned upon Title.

Assise, they were adjourned upon Title; and for that, that they cannot agree at the day of the Adjournment, after the agreement Plaintiff abridged & might, 10 H. 6. f. 22.

After the Jury in Assise were together in the house before their Verdict came, the Plaintiff abridged, and was suffered, 33 H. 7. tit. 6. B.

Attornment.

WHen any Mannor descends to the Lord, upon every descent to the Lord, it belongeth to the Steward at the first Court to make all the Tenants to make Fealty; and also upon every purchase of Mannor to enter the Fealty of every Tenant which holds of that, and also to enter their Attornment and Seisin of Services, to the end that the Lord may by this means distrain for his services, and the Tenants may hereafter be better known to him; and 28 H. 8. tit. 40. Attornment may be made by Tenants to the Lord in his Court, to the Steward or Purchasor, and not to his Servant in absence of the Lord.

For that something shall be said of Fealty, and where there ought to be Attornment, and where not.

IT is said, That the Tenant that hath made Homage to the Father, shall not make Homage to the Son, for that he hath once made Homage to his Lord, but yet he shall make

make Fealty to the Son, though he have made it to the Father; but if the Mannor be recovered against the Father which hath taken Homage, now he shall make Homage again, *Littleton, fol. 29.*

If a Mannor be exchanged, yet there ought to be attornment, otherwise the Lord cannot distrain for the arrearages; *Perkins, fol. 47, 56, 58.*

If one allien his Mannor by Deed Indented of Bargain and Sale, and inrolls that according to the Statute; that is good without attornment, and the Lord may distrain for his services, and the same Law is of a Reversion so granted, but of a Grant by Fine it is otherwise, 27 H. 8. ch. 16. 30 H. 8. Tit. attornment.

If the King grant Reversion of Lands, or grant a Mannor to one, and his Heirs, or otherwise by his Letters Patents, the Patentee may distrain or avow without attornment, and he need no attornment, 34 H. 6. fol. 7. *Fitzh. f. 60. J. & 6 Ed. 3. tit. 13. Natura Brevium fol. 171.* accordingly, 12 Ed. 4. fol. 3.

Where a Mannor of Reversion is Devised by Will in writing, that is good, and shall pass without attornment, 19 H. 6. fol. 24. *Littleton fol. 132.* accordingly of Devise, where Lands were devisable by Custome, 13 H. 6. fol. 7.

The Lord may avow upon the Tenant by the Curtesy, and in Dower, and upon him which recovered against his Tenant without attornment, for they are in by Law, and need to have no attornment, 36 H. 6. f. 39.

If one have a Mannor delivered in Execution by vertue of a Statute-Merchant, or an *Elegit*, he may avow without attornment, 20 H. 6. f. 7.

Where a Mannor Escheats, or the Lord have that as a Perquisite by his Villain, he may avow without attornment, *Littleton, fol. 132.* 34 H. 6. f. 7. accordingly, and *Fitzh. fol. 60. J.*

If a man have a Common of Pasture to a certain number, or a Common of Estovers certain, and grants them over, these shall pass without Attornment, for that they are not to be taken by the hands of Tenants, but by the mouths of Beasts; and where no attendance nor payment is to be made by the Tenant, there the things may pass without attornment, 31 H. 8. tit. Attornment.

Where

Where a man lets for forty years, and after lets the same Land to another, to have the Land from the end of the first. Term for twenty years, there needs no attornment; and contrary, when he grants a Reversion, to have the same Reversion at the end of the first term for twenty years then next ensuing, there ought to be attornment, by *Horewood*, 37 H. 8. tit. 41. and 1 Ed. 6. tit. 4.

A man lets a house for life, and after grants the Reversion of the said house, to have from the Feast of St. Michael, next after the death of the Tenant for life, for 21 years then next following; this is good without attornment, for this passeth by (to have) the house as a Lease, and not as a Reversion; and also the Tenant for life is not attendant to him, 3 *Miry*, tit. 69.

One lets for twenty years, and this Lessee lets that for ten years, rendring Rent; and after this Lessee for twenty years grants the Reversion of the Term-rent to a stranger; it behoveth, that the Lessee for ten years attorn; otherwise it is, if no Rent be reserved, 2 Ed. 6. tit. 45.

If a man lets for ten years, and the same Lessee lets that to another for four years; the Lessor makes a Feoffment to a stranger, by sufferance of the second Lessee; this is a good Feoffment, without attornment of the first Lessee, 28 H. 8. tit. Feoffments, 68 B.

Two Joynt-Tenants, and one release to the other; it is good without attornment, 28 H. 6.

Then let us see what is good attornment; and what not.

VHere a Reversion is granted, and the Tenant attorn by a penny; it is good, for it is an agreement, 8 *Book of Assise*, 25.

A man grants four divers Rents, and the Tenant attorns by a penny, this is good for them all; that is to say, for them all to distrain; but not for them all to have an assise, for it is not Seisin, 23 *Book of Assise*, 66.

Attornment ought to be made by the Tenant in the life of the Grantor, for attornment after is not good, 16 *Book of Assise*, 25.

A Lease is made for life, and after the Reversion is granted to one, and the Tenant for life surrenders to him; this is a good attornment, 23 *Ass*, 18.

A man

A man seised of two Acres, or of two Mannors, lets one for years; and after makes a Feoffment of both, and makes Livery of that in possession, yet the other shall pass without attornment, 7 Ed. 4. fol. 20.

Where a Feoffment and Livery is made of a Mannor that one hath in execution by a Statute; this Livery is as an attornment, if the Tenant by Statute enter again, 46 Ed. 3. fol. 30. 7 H. 4. Statbam 46. the same.

If a man lets a Mannor for years, and after outs the Termor, and Enfeoffs another, and makes Livery, and the Termor re-enter; it is good without other attornment, 5 H. 5. fol. 12. the same, 9 H. 6 fol. 16. the same, Lit. fol. 130.

If a Feoffment be made, and livery also, and do not out the Termor, nor he attorn, it is not good, 5 Book of Ass. 1. 17 Ass. 3. 2 Book of Ass. 1. the same, and 21 H. 7. fol. 7.

If my Tenant for life lets his Estate to another upon Condition, for default of payment to re-enter; and after I grant the Reversion, and the first Tenant attorns; this is not good, for he hath nothing at the time of the Grant of the Reversion, 8 H. 5. fol. 10.

A man lets his Mannor for life, and after grants the Reversion of that to another; if the Tenant for life attorn, it is good, and all the services of all the Free-holders of the Mannor shall pass without other attornment, 21 E. 3. fol. 34.

Payment of Rent is good attornment, 49 Ed. 3. fol. 15. Payment of Rent in name of Scisin is agreement and Scisin; 40 Ed. 3. fol. 34.

Where they are compellable to attorn; and where not: and what Tenants are compellable to attorn; and what not.

WHere a Reversion or a Mannor is granted, unless it be by Fine, there lies no *Quid juris clamat*, to compel the Tenant to attorn; but upon Grant by Fine, and not upon a Grant of Reversion by Deed, *Natura Brevium*, fol. 170.

If a man alien his Mannor, he need not that the Tenants at will attorn, and the same seems of Tenants by Copy of Court Roll, Br. tit. 44. Littleton, fol. 123.

By Scisin by the hands of the Tenant at will, the Lord by that cannot avow, 8 H. 6. fol. 65.

Tenant

Tenant for life grants his estate to J. S. upon condition; and after the Reversion is granted by Fine, and the first Tenant for life attorns; it is not good, and he is not compellable to attorn, but J. S. 8 H.5. fol. 10.

If I let for life, and after grant the Reversion by Fine; and after Tenant for life grant over his Estate to J. S. yet after attorns, it is good; for he was compellable to attorn, and not J. S. 18 Ed.4. fol. 10. and 21 H.6. fol. 61.

If Tenant in Dower grant over her Estate to J. S. and after the Reversion is granted by Fine, she is compellable to attorn, and not J. S. 10 H.4 fol. 10. 1 H.4 fol. 18. the same.

If Tenant by the curtesie grant over his Estate, and after the Reversion is granted by Fine, Tenant by the Curtesie is compellable to attorn, 18 Ed.3. fol. 3.

He which was Tenant, day of the Fine levied, though he hath granted over his estate, is compellable to attorn, 18 E. 4. fol. 10. also 18 H.6. fol. 25. and 21 H.6. fol. 6. the same.

After a Fine ingrossed, and that delivered, the Tenant is not compellable to attorn, for a *Quid juris clamat* lieth against him. Fitzh. fol. 147. and 11 Ed.3. Statham.

If I give Lands in tail, reserving Rent, and I grant that Rent by Fine, the Tenant shall be charged to attorn; otherwise it is if I grant the Reversion, for there he is not compellable to attorn, 5 H.5. Statham.

where any person is not compellable to attorn, and yet attorns; and their attornment good; and where not.

Tenant after possibility of Issue extinct, is not compellable to attorn; and yet if he attorn, it is good, 43 Ed. 3. fol. 15. 46 Ed.3. fol. 13.

If Tenant in tail attorn, it is good; and yet he is not compellable to attorn, 3 Ed. 4. fol. 11.

If Donor grant the Reversion of Tenant in Tail, to another in Fee; if the Donee attorn *gratis*, it is good, and yet he is not compellable, 12 Ed.4. fol. 3.

If a Lordship or Mannor be granted by Fine, and after the Tenant which holds of that, makes a feoffment or is disseised; if the Feoffee or Disseisor attorn, it is good, and yet they are not compellable to attorn, 18 Ed.4. fol. 10.

If a man lets for 10 years, and the same Lessee lets for

four years attornment of the second Lessee is good, and yet he is not compellable to attorn; and clear is attornment of the first, for he ought to attorn, 28 H. 8. tit. feoffments 88.

If I lett for life, and grant the Reversion by fine, and after the grant; and before attornment, the tenant for life lets over his estate to J. S. and he attorn *gratis*; it is good, and yet he is not compellable to attorn, 21 H. 6. fol. 54. and 20 Ed. 3. Brook tit. 24.

Fine is levied of a Lordship; and before attornment the Tenant makes a Feoffment, and after the Feoffee attorns; this is good, and yet he was not compellable to attorn, but his Feoffor was compellable, 18 Ed. 4. fol. 10.

Now let us see that the Grantee by Fine without Attornment, cannot have action, nor avow for Rent, which is in lieu of action, nor have waste; but may have all other things, as entry for forfeiture, and have escheat and things in seisin, and take, and have aid.

VHere a Reversion is granted by Fine, the right passeth, and for that Tenant for life shall have aid, though he make no attornment, 12 E. 4. fol. 3. 37 H. 6. fol. 7. the same, 35 H. 6. fol. 5.

Where a Mannor is granted by Fine, and Tenants do not attorn; the Lord cannot distrain for Rent, but shall escheat of them, 10 H. 6. fol. 17. 34 H. 6. fol. 7. the same, 20 H. 6. fol. 7.

The Lord grants his Lordship by Fine, the Grantee shall have such things, which lie in taking, as ward; but he cannot avow for Rent, *Nat. brevium*, fol. 172.

Grantee, by Fine of a Lordship cannot distrain; but shall have escheat and ward, though there be no attornment. But if Tenant for life, alien in Fee, he may enter for forfeiture, tit. fol. 130. B. p. 131. A.

Waste before attornment is punishable, but the Grantee may enter for forfeiture or seisure, but shall not have waste before attornment, 48 Ed. 3. fol. 15. and 34 H. 6. fol. 7. the same.

Note, that one cannot have an action without attornment, though the grant be by Fine.

Attorney in Court Baron.

They that have Tenements in divers Counties, and fear to be impleaded in a County, or in a Court Baron, may make a general Attorney to prosecute for them in all Pleas. West. 2. chap. 10.

It is likewise provided, that every Freeman which oweth suit to the County Court, Tything, Hundred, or to the Court of his Lord, freely may make his Attorney to follow his Suits for him; so it appears, that a Copy-holder cannot so do, but by assent of the Lord, he may compound to pay a certainty yearly, to release his Suit, and that which he holdeth, he may freely by the Statute; and it seems, that the making of an Attorney, ought to be by writing sealed, and not by word. *Merton, chap. 10.*

A Writ of making an Attorney or receiving, lieth in Court Baron, to make the Attorney to make suit. *Fitzh. 175. B.* there lieth an *Alias, Pluries*, and an attachment, if he be not allowed, but Copy-holder shall not have that Writ. *Fitzh. 156. D.*

One may make an Attorney to make suit personal, which is in a Hundred or other Court Baron; but for suit Real, at the Leet or turn of the Sheriff, he shall not make that by an Attorney. *Fitzh. 25. c.*

What Action shall be sued in a Court Baron by plaint, and what not.

WHere one sues several plaints for five Marks, the other shall have prohibition. And Detinue of Writings shall not be sued there; and if he doth, the other shall have a prohibition. *5 Ed. 4. fol. 128.*

Where 20 l. is parted in several plaints under 40 s. prohibition lies. Note, there it is said, *Supersedeas* lies, and the Defendant there with safe conscience may wage his Law. But see *48 Ed. 3. Fitzh. fol. 46. A.*

The Lord himself shall have debt in his Court Baron, for that that the Suitors are Judges, time of Ed. 1. tit. Debt, in *Fitzh. 177. 6 Ed. 4. fol. 3.* Suitors are Judges there.

Debt or Trespass may be sued in Court Baron by plaint, but

but that is where the Debt or Damage is under forty shillings; that the Defendant in trespass plead his Free-hold, or that the Plaintiff is his Vllain, the Court shall cease: otherwise, a Writ of false Judgment lyeth, and also it is good exception to the Jurisdiction of a Court Baron, to say, that the Contract was made out of the Mannor in another Town, 34 H.6. fol. 53.

A man shall not have account in Court Baron, nor in County, 43 Ed.3. fol. 19.

Plea ought not to be removed in Debt or Trespass from this Court, but where a Debt or Damages amount above forty shillings, or in Replegiare: but I intend there shall not be a plaint in Replegiare in every Mannor, but in this Mannor where the Lord hath ancient authority by Charter to make Replegiare; yet divers seem the contrary. See Fitzh. Nat. Brev. 14 H.8. fol. 17.

Trespass, Damages found eight pence in the common Bench; and the Plaintiff recovers, but he cannot there count under forty shillings; and in Court Baron he cannot count above forty shillings, but under that, 19 H.6. fol. 8.

That Deed and Trespass shall be sued in Court Baron. Bitton, fol. 61.

Detinue of Goods may be sued in a Court Baron 6 E.2.

Every stranger which comes within the Mannor may be sued there in Debt or Trespass, under forty shillings, so that Debt, Detinue of Goods, and such actions personals (except account) where the Debt or Damages is under forty shillings: it is determinable in a Court Baron, by plaint there, 34 H.6. fol. 53.

Trespass (by force of arms) doth not lye in a Court Baron: Note, that the contrary is used, 7 E.4. fol. 23. Sheriff in the County may hold plea by Justices of the great Summons; but Justices shall not be in a Court Baron: for Justices shall not be directed to the Steward, but to the Sheriff; and the Sheriff is Judge in a Justices and Officer to the Court: but so is not the Steward, 21 Ed. 4. fol. 79. Fitzh. fol. 193. F.

Note, that Court Baron hath no authority to hold plea of Free-hold, & of that to give judgment for execution thereof, that is a disseisin to the Tenant, 22 Aff. 64. Glanville 94 saith, No man is tyed to answer in the Court of his Lord of a Free-hold, without the command of the Lord the King.

Right

Right patent may be directed to the Lord to be tried in a Court Baron, but it cannot be tried there by great assise, but it seems it may be tryed by Battel; and if the Tenant joyn Battel, the Lord may give day to try it: but *Fitzh.* fol. 4. E. saith, If the Lord will proceed, or Issue is joyned upon the great assise, prohibition lies; and if Bastardy or any Forrain plea be pleaded, then they have no Jurisdiction in Court Baron; and if they proceed, prohibition lies. Time of Ed. 1. tit. Droit. 45. 1 H. 6. fol. 7.

If plaint of Debt, or Trespass be sued there, and Forrain matter is pleaded, it shall not be tryed in Court Baron, 1 H. 5. fol. 12.

If in a Writ of Right patent in Court Baron for Chatter Land, the Lord will not proceed to do Right, the Demandant may go the Sheriff, and have a (*Tolt*) which is a command to his Bayliff, that he take out the complaint, and remove the Plea into the County, and after that also by a (*Pone*) in the Common Bench; but the Tenant shall not have a (*Tolt*), but he shall have a (*Recordare*) with the cause, and the Demandant may have a (*Pone*) without cause, *Fitzh.* fol. 3. F.

Note, that a Writ of Right Patent ought to be sued in the Lords Court, and not other where, without the license of the Lord, Testimony of the King, by Letter, or otherwise, that he hath given license; and then he shall have his Writ, because the Lord hath remitted his Court in the Common Bench, *Nat. Brevium*, fol. 15.

None may distrain Free Tenants to answer of a Freehold, nor any thing belonging to the Freehold, without the Kings Writ, *Marlb.* chap. 22.

Copy-holders shall not be impleaded by the Kings Writ, but shall be impleaded in the Court of their Lord by plaint, in nature of what Writ they will, *Litt.* fol. 16.

Debt upon a Bill obligatory under forty shillings lieth in a Court Baron.

Fitzh. 2. E. If a Right patent be sued there in Court Baron, and Forrain matter be pleaded there, or Issue joyned to be tryed by great Assise, there shall go a prohibition.

Fitzh. 39 C. The Tenans may have prohibition directed to the Sheriff to prohibit Bayliffs of the Court where the

Mise is joyned in a Writ of Right upon the Grand Assise, unless Battail were there offered.

Marlb. chap. 20. None, except the Lord the King, shall hold pleas in his Court, of false Judgment given in the Court of his Tenants, because these pleas especially belong to the Crown.

Fitzh. 4. E. If a Plea be held there which ought not, a prohibition lieth.

Fitzh. 47. B. Detaining of Writings shall not be sued in a Court Baron.

Fitzh. 139. D. If a man hold plea in County of Trespas by force of Arms, the Defendant may sue a *Supersedeas* out of the Chancery.

The same Law seems in a Court Baron, 8 Ed. 4. cit. Jurisdiction.

B. 215. See *Fitzh.* 85. C. That Trespas shall be brought in Court Baron, and there see the form, of the Writ; but it is not by force of Arms there.

Britton, fol. 61. That Debt and Trespas shall be sued in a Court Baron.

Fitzh. 85. G. Trespas Viscountile, there shall not be (by force of arms) in the Writ.

8 Ed. 4. tit. 115. Trespas doth not lie in a Court Baron, (by force of arms) for a Fine shall not be set but in a Court of Record, and for that it shall not be there (by force of arms). See *Glocester*, chap. 8.

22 Aff. 64. If one implead me in a Court Baron, without a Writ, and recover Damages, where I plead to the Jurisdiction, and the Court ought to be oured; yet if the Bayliff make execution of these Damages by command of the Steward, he shall not be punished in Trespas; for he doth that which he ought to do, till it be defeated by false Judgment; but if it were (before not a Judge) it is void, and otherwise.

9 H. 7. fol. 12. Recovery in the Common Bench of Lands, in the Countries of *Lancaster*, *Durham*, or *Chester*, is there (before not a Judge); otherwise it is there, of recovery of Land, in the (five Ports.)

22 Ed. 3. fol. 30. Forfeiture in the Kings Bench, and an Appeal in the Common Bench, Recovery there in these are void. See 7 H. 4. fol. 3. and 8 Book of Aff. 32.

Glocester, chap. 8. It is provided, that the Sheriffs shall plead

plead in Counties the pleas of Trespas also, as they were wont to be pleaded, &c.

13 H. 7. fol. 20. Waste, to plead in that is not good; for that that Land shall be recovered, and so in an (*Ejectione firme*) and so it is in a (*colligendum*), they shall not be sued here; and by *Fitzh. 220. H.* Plaintiff shall recover his Term and damages.

Littleton, fol. 60. If there be two Tenants in Common for years, and one put the other out of possession, he shall have an (*Ejectione firme*) of his half, for that it is to recover a real Chattel. So it seems that shall not be sued here, nor an Ejectment of Ward which is in realty.

Fitzh. 220. H. Process of Outlawry lies in an (*Ejectione firme*) and yet he shall recover his Land again, unless it be expired, and also his damages.

Littleton 93. A Writ of Waste is a mixt Action, so is an Assise of Novel Disseisin, and a (*Quare Impedit*) and for that they shall not sue here.

Action upon the Statute of 8 H. 6. nor upon the Statute of R. 2. shall not be sued here, for that that they are given by Statute, but an Action upon the Case may be sued here if the damages are under 40 s.

Plaint in Precipe.

Trespas in one Tenement with a Toft adjoining, containing 4 Acres of Land, agreed that this word (Tenement) is uncertain, 3 E. 4. tit. 28. 11 H. 7. f. 25. (tenement) is no term to demand a house or shop, 45 Ed. 3. f. 6. Precipe of Land in D. it is a good plea, That there is no such Town.

41 Ed. 3. fol. 22. Precipe in D. and S. for that, that D. is a Hamlet of S. and he demands a thing twice, the Writ shall abate.

8 E. 4. f. 6. Precipe doth not lye in a hamlet, but in a Town, or in a place known out of a Town; but all Actions personal may be brought in Hamlet or Town, or place known.

Dower, Assises, and *Scire facias* to have execution of a Fine, it may be brought in a Hamlet.

16 E. 3. Precipe of a piece of Land without certainty, is not good; but of a piece of Land containing so much, is good; see before, 11 H. 4. f. 38)

13 H.4. tit. 33. Dower of a Mill, though after the witness of the Writ it was made a (*Toft*) it is good; otherwise if it were made a *Toft* before the witness of the Writ, 14 H. 4. tit. Demand 5. the same.

13 H. 6. fol. 8. Upon two Verges of the Land are built house, and they are Meadow and Pasture; they are now to be demanded as they are, not as before when they were verges, *Fitzh.* 161.

9 Ed. 2. 41 Precipe of passage over a water, &c. good.

27 H. 8. fol. 14 Precipe is not good of a Common; but of Pasture for two Beasts, is good, 4 Ed. 4. f. 2. the same.

22 Ed. 2. f. 13. By *Jenney*; A man shall have a *Precipe quod reddat* of a house and Garden, but he shall not have a Precipe of a Garden alone.

For that, that Plaints shall be made for Copy-hold in nature of Precipe, let us see of what, and how Plaint of Precipe shall be made.

Precipe may be of a Chamber, and yet foundation may perish, for that it is not in perpetuity, 5 H. 7. f. 9. contrary, H. 6.

11 H 7 t. 24. Trespafs may be brought of Trespafs in a Hamlet, and Precipe shall be brought of Land in a Town, and not in a Hamlet.

16 H. 7. fol. 7. Assise doth not lie on a Rectory: *Quere*, If an *Ejectione firme* lieth of that.

9 H 7. fol. 21. Precipe of Lands in D. by *Bryant* over D, and neither D, is good in abatement.

7 H 4. f. 9. Waste in D, it is a good Plea in abatement, that D. is neither Town nor Hamlet.

11 H. 4. f. 38. Precipe, that he should restore a certain portion of Land, is good by *Hank* and *Hll.*

6 Ed. 3. tit. Demand 41. Precipe of 8. foot of Land in length, and 6. in breadth, and good.

13 Ed. 3. tit. 32. & 33. Precipe of an Oxgange of Land, is good: Contrary of an Oxgange of Marsh, for that cannot be gained, tit. Demand. 33. & 36.

40 Assis, 9. Precipe shall be brought in a Town, and not in a Hamlet, 34 H. 9. fol. 1. the same.

34 H 6. fol. 20. Precipe shall be in a Town, or of a Manor, which is a place known out of a Town, and not in a Hamlet,

Hamlet. But an Assise in a Hamlet is good, and also in Dower.

who hath most Right, and Right ought to be sued there.

Littleton fol. 91. If a man be Disseised by an Infant, the which alieneth in Fee, and the alienee dyes seised, and his Heir enter, the Infant within age, he may have a (*Dum fuit infra aetatem*) or a Writ of Right, or (Entry) at his election; for he hath more right then the Heir of the Alienee. But if the Disseisee release to the Heir of the Alienee, if now he bring a Writ of Right, the Issue shall be upon the meer right, and shall be found for the Heir; for now he hath more right by the release of the Disseisee.

Littleton, fol. 93. If a Disseisor dye seised, and his Heir in by Discent, if the Disseisee enter, and the Heir of the Disseisor brings an Assise, he ought to recover; But if he brings a Writ of Right, the issue shall be upon the meer right, and there the Heir shall be barred; for the Disseisee hath more right.

Right Patent is to be directed to the Lord, of whom the Land is held, unless it be held of the King or Queen, and it is a Commission to the Lord, that he shall do right: and it may be removed by a (*Recordare*) by the Tenant with cause, and by a (*Pone*) by the Demandant without cause, and after that it be removed in County, it may be removed by the Demandant by a (*Toli*), Fitzh. fol. B. and Britton, fol. 275. where the Tenant puts him upon the grand Assise, it shall be removed, Fitzh. fol. 1. F.

where Judgment finall shall be, and where not.

IN a Writ of Right, Judgment final shall be given; but after the Mise joyned, and upon every recovery upon departure in despight of the Court, Judgment final shall be: as in right against a Prior, which voucheth common Cryer, which entereth into the Warranty, and the demandant Imparls, and at the day the Vouchee departs in despight

spight of the Court, and upon this Judgment final given, 26 H. 8. fol. 10. 12 H. 7. fol. 10. If the Tenant in Writ of Right joyn with the *Mise*, and after depart in despight of the Court, Judgment final shall be given. So if he joyn the *Mise* by a Champion, and make default, Judgment final shall be given; but if he make default at the *Nisi Prius*, and upon a petty *Capias*, yet he cannot save his default, Judgment final shall not be. The same Law if he make default after default, before the *Mise* joyned, Judgment final shall not be.

Fitzh. fol. 11. If a man lose by default in a Writ of right before the *Mise* joyned, yet he shall have a Writ of right against him which recovers. But after the *Mise* joyned it is otherwise, for then upon default after the *Mise* joyned the Judgment shall be final as well against the Defendant for his Non-suit, as against the Tenant, if he make default afterwards.

10 H. 6. fol. 2. Right, the Tenant vouches, and the vouchee comes in and joyns Issue, and the Demandant imparls till the next day; and at the day, the Tenant was demanded and makes default, Judgment final shall not be given against the Vouchee there.

1 H. 6. fol. 7. Where the *Mise* is joyned by Battel in right, and after the Champion of the Tenant maketh default, Judgment final shall be given.

Time of Ed. 1. tit. 44. If the Tenant make default after the *Mise* joyned, he shall lose the Land for ever, if he cannot save his default.

3 H. 6. fol. 37. If the Tenant in right saith, that he hath more right, ready to try by Battel, and the Plaintiff rejoyn, and day given, and at the day, the Tenant makes default; and for that, that the Justices see a Fine, by which the Tenant hath but an Estate tail, they advise of the Judgment, and clearly where the Tenant maketh default after the *Mise* joyned, if it were Fee, Judgment final should be.

Process in Court Baron.

PROCESS in Court Baron, is Summons, Attachment, and Distress, which is Process at the Common Law, 34 H. 6. f. 53. & 37 H. 6. fol. the same.

By *Martin*, one cannot have a *Capias* in Court Baron, nor Execution there (by *Capias* to satisfy) but the natural execution and Process is Attachment of Goods, as after more at large appears, 3 H. 6. fol. 56.

Process upon Plaints for Copy-hold Land, is the same Process, which is at the Common-Law, in nature of what Writ the Plaintiff is.

Amerciament in Court Baron for suit and otherwise; and what remedy for that, and where it shall be moderate.

Moderata Misericordia lyes, where a man is amerced in a Court Baron outrageously, and upon that also lyeth, *Alias*, *Pluries*, and Attachment. But if the Amerciament be affiered by equals, *moderata misericordia* doth not lye, 10 E. 2. tit. Action upon the Stat. 34.

And note, that this is the cause, that in all Court Barons three are sworn to affier the Amerciaments, after that the homage hath presented the offences; and *Bracton* calls them Trustees, Amercers, and Affierors; also it seems to be by the Statute of *Magna Charta*, chap. 14. and by *Westminster*, 1 chap. 6. which is, that a man be not amerced, but by his equalls, *Fitzh.* fol. 75. A.

Debt lyeth by the Lord, for Amerciament in his Court Baron affiered, and there held that the Defendant may wage his Law in his Action; also Amerciament may be in Court Baron upon the Plaintiff, if he be non-suited, and upon the Defendant if it be found against him; or if he fail of his Law, *Statham*, 1 R. 2. fol. 65.

A Freeman shall not be amerced for a small fault, but according to the manner of that fault; and for a great one, according to the greatness of the fault, saving to him his Freehold; and to a Merchant, saving his Merchandize; and to a Villain, saving his waynage. And upon this Statute is
(mode-

(*moderata misericordia*) founded, as appeareth by the Register. And *Glanville* saith, there is also mercy, because who by the Oath of lawful men is amerced, shall lose nothing of his honourable Free-hold, *Magna Charta*, chap. 14.

If the Lord of his own head amerce any Tenant or party in the Court Baron without cause, the party may have a Trespass if he be distrained for that Amerciament, *Fitzh.* f. 75. c.

If the Steward or the Bayliff will assise any amerciament without assising by two upon their Oaths, after that the homage hath presented the Offenders, there is a special Writ there, upon the Statute of *Magna Charta*, ch. 14. upon these words, That none shall be put upon the aforesaid mercies, but by the Oath of good and lawful men, so that the Steward cannot confirm the said Amerciaments by this Statute, but the assisors, or affirmors, *Fitzh.* fol. 76, D.

Amerciament in Court Baron, which is the 12 and 13th Article of the Charge, for a Trespass done to the Lord; and what remedy for it.

Lord of Court Baron may have Action of Debt in his own Court for Amerciament due to him for that, that the Suitors are Judges there, and not the Lord in his Lordship. *Time Ed.* 1. tit. 177. & *Statham*, 12 R. 2 fol. 5.

Debt lyeth by the Lord for Amerciament assised in Court Baron, and assised there, and *Bracton* saith, that the Assisors shall confirm, that they shall oppress none for hate, nor ease others for love, and that they shall not conceal those things which they hear, so that the Lord cannot Amerce for Trespass done unto himself, unless by Custome and usage, otherwise it is Extortion.

The Lord cannot amerce a man in his own Court, for Trespass made to himself by the Law, but he may by Custome; but if he levy the Amerciament, it is a good bar in Trespass, be the Custome so or not; and if it be not used, it is Extortion, 12 H. 4. fol. 9.

It seems that for a small Trespass made to the Lord, he may be amerced in the Lords Court, and if it be confirmed and paid, the Lord shall not have Trespass of that, 14 Ed. 4. f. and 7 H. 4. f. 8.

If Tenant be amerced in the Lords Court, for trespassse to the Lord, it is Extortion; but if the Lord accept the Amerciament, it is good satisfaction for the trespasss, and good barr in trespassse, 48 Ed. 3. f.8.

In trespassse by the Lord, it is a good barr, that the trespassse was affirmed by the Suitors, 48 Ed.3. fol.8.and 47 Ed. 3. fol.19.

Attachment in Court-Baron upon debt or trespasss, or in any other action, it seems that he shall forfeit the thing attached upon default; and, what thing shall be attached, and what not, let us see.

BY Billing, Wangford, and Needham, that in (Pone) in Court-Baron the goods attached, if he make default, shall be forfeit to the Lord, tit. *Court-Baron*, 1 Book Report, 37 H.6. fol.49.

If a Bayliff attach a Beast in a Court-Baron, and it was returned attached, and doth not come, it is forfeit to the Lord, 28 H.6. fol.9.

If the Sheriff attach a Cow, the property is not out of the Defendant, till he make default upon return of that; and if the Sheriff leave the Cow attached with the Defendant, yet if he make default, it is forfeit to the King, and the Sheriff may take it with him at the first if he will, 9 H.7. fol.6.

By Bryn, A Plaint cannot be affirmed in a Court-Baron, but the Court sitting, and so attachment shall be awarded, the Court sitting; notwithstanding it is used otherwise, 21 E.4. f. 79.

By B bington, That Attachment shall be by a meere chattel, which shall be forfeited by default of the party; but it shall not be by a chattel real, as a Lease for years, or a Ward, nor for apparel, 7 H.6. fol.10.

That Attachment shall be of chattels which a man may forfeit by Outlawry, 26 H.6. tit. *Affise*, 14.

By Moyle, That no goods shall be attached but the proper goods of the party, and not the goods which the party hath in pawn, or that he hath borrowed, 35 H. 6. fol.25.

¶ Le Precept de attachment est fait, ut sequitur, &c.

Prebend'
de Iffling-
ton Attach-
ment.

- J. K. Seneschallus, Ballivo ejusdem, salutem: Quia J. S. queritur versus J. D. in placito debiti triginta solidorum, *or*, in placito transgressionis, (*if the Plaintiff were trespass, &c.*) *or*, in placito detentionis &c. Et invenit pleg. de protequendo, &c. Ideo tibi præcipio, quod attachias prædictum J. D. per omnia bona et catalla sua; ad respondendum præfato J. S. in placito prædicto, ad proximam Curiam ibi tenendam. Et habeas ibi hoc præceptum, & qualiter, &c. Dat. xxij. die Aprilis, Anno Regni Reginae Elizab. &c. xxiij.

Per me J. K. Seneschall.

Note, That in a Court-Baron a man shall be attached by goods, and there shall issue no *Capias* there.

Where the Entry is, The great Court of J. S. there held, this is but a Court-Baron. And where the Entry is, To the great Court with Leer, it is presented; this is uncertain and not good; for the Entries shall be several, as it follows afterwards, 10 Ed. 4. f. 17.

By-Laws.

I intend, That By-Laws and Plaints, which is the 21 Article of the Charge, may be made in Court-Baron, as well as in Leer.

IT is said, That a Town may make By-Laws, 11 H. 7. fol. 14. and 44 Ed. 3. f. 19. and that where By-Laws are for the Commonwealth, are good; and it is general, that By-Laws may be: and it is not material in what Court, so I intend, for those causes were made in Court-Baron.

By-Laws for Inheritance shall not binde, but those which were parties to it, and not any other which was no party; 15 Eliz.

One By-Law may order the Inheritance of a man, but cannot dis-inherit any, by *Mumwood*, 15 Eliz.

By-Law may be made in Leet, and may be in a Town by *Harper*, and shall bind every one, if it be for the Commonwealth, and otherwise not, but only he which agrees, and not a stranger, 11 H.7. fol.14.

One avows taking of distress, and prescribes, That, &c. there was a custom had, that all the Tenants, or the greater part of the Tenants of this Mannor, and other the Residents and Inhabitants within that Mannor, or the greater part thereof, to the Court-Baron of that Mannor, held at the said Mannor, were used and accustomed to make Laws, called By-Laws; which proves, that By-Laws may be made in Court-Baron, as in Court-Leet.

2 Eliz. *Dyer* saith, That a Steward by assent of the Tenants in his Court, could not by the Law apportion himself, and the residue of the Tenants, of their Common for Sheep, if they have that by the Grant of the Lord himself: But if they have that by prescription, otherwise it is. And they may agree, That he which surcharges, shall pay to the Lord so much; but then it behoveth the Lord to shew authority by prescription, that his Tenants have made such By-Laws of the Commons, and other things of Land, of time whereof, &c. and ought also to prescribe, That he had used to distrain for that; but if such Amercement had been paid without distress of their accord, that is good evidence to the prescription of distraining.

Copy-holders.

Now let us see of Copyhold, which is the 22 Article of the charge. And first, what interest a Copyholder hath by the Law; and what by the Custome.

Trespasse by Tenant by Copy, it doth not lie against his Lord for his Copyhold. Besides, *Danby* and *Bryan*, 21 Ed.4. But he shall have a *Subpoena* against his Lord, and not a Trespasse, 7 Ed.4. f.19. And at this day it is held, That a Trespasse lies.

Tenant for life by Copy, shall say in his pleading, That he

he is seised in his Demesne as of a Freehold, according to the Custome of the Mannor; And if he have Fee, that he is seised in his Demesne as of Fee, according to the Custome of the Mannor, and justifie not, that they have no Freehold at the Common-Law, but by the Custome; so that Copyholder hath Fee and Freehold by the Custome, and not by the Common-Law, as it seems by this Book, 21 Ed. 4. f. 96.

Trespasse against the Tenant by Copy, hath aid of his Lord, 15 H. 7. fol. 10. and 21 H. 6. the same.

Copyholder may have Trespasse against one of Trees cut, though that the Freehold be in the Lord. So by this it seems that he may have trespasse against every one for trespasse made upon the Land, but against the Lord, 2 H. 4. fol. 13.

The Dean of *Pauls* hath a Lordship of Ploughers, and all the Tenants are Tenants at will, and the Freehold is in the Lord; and there it appears, that a Copyholder may have a Trespasse at the Common-Law, against one which makes a trespasse upon his Land, but he cannot sue Action at the Common-Law for the Land, nor remove that Suit out of the Court of the Lord, 1 H. 5. fol. 11.

The Lord shall have the Wood of the Copyhold, and sell it, unless the Copyholder have that by Custome, as in many Mannors he hath, 2 H. 4. fol. 13. & 43 Ed. 3. fol. 32.

Tenant by Copy at Will, which is called Tenant of base Tenure, if he be outed, shall not have a Right Close, but sue by Bill in the Court of the Lord, and in times past a Copyholder was called a Tenant in Villenage, or of base Tenure, *Fitzh. f. 12. B.*

Tenant by Copy or by verge of will at base Tenure, shall never have a (*Monstraverunt*) but the Copyholder in Ancient Demesne of Freehold shall have it, *Fitzh. 14. D.*

If my Copyholder Enfeoff one, I may enter for forfeiture, 11 H. 4. fol. 81.

Tenant by Copy cannot alien his Land by a Deed, for if he do, it is forfeit, *Littleton, f. 15.*

If a man lets a Mannor for years, in which they are Copyholders, and after a Copyholder dies, surrender and admittance

admittance by the Lord; the Termor in Court of that Mannor, is as well as if he had the Fee-simple; 4 Mar. Tit. Copy, Br. 17.

Copyholders shall not have false Judgment; for then they shall be restored to the Freehold, or shall not lose the Freehold, but ought to sue by Bill; that is to say, by plaint in Court; 7 Ed. 4. fol. 19. the same; *Littleton*, fol. 16. They shall not be impleaded by the Kings Writ, but by plaint in the Lords Court in nature of what the Writ will, *Naturæ Brevium*, fol. 16.

Copyholders have an Estate of Inheritance according to the Custome of the Mannors; yet they have no Freehold by the course of the Common-Law; *Littleton*, fol. 16.

Tenant by Copy shall make Fealty to his Lord and Tenant at Will by the Common-Law; *Littleton*, fol. 17.

It is said, Though Copyholders have Inheritance according to the Custome; yet they have but an Estate at the will of the Lord; according to the course of the Common-Law; and cannot have Trespass against their Lord; yet they may barr their Lord in trespass brought by the Lord against his Copyholder; as it appears; *Littleton*, fol. 15. and 16.

Tenant by the Verge in Ancient Demesne.

Lands held by the Verge; are not pleadable by the Kings Writ, but by Bill, for that, that the Freehold is in the Lord; but there is a diversity between Plow-holders of Frank-tenure; and Plow-holders of base tenure, which are dwelling in Ancient Demesne; for Plow-holders of Freehold are pleadable by a Writ of Right Close; but Plow-holders of base tenure, are those which hold by Verge at the Will of the Lord; and the Freehold is in the Lord, and are not pleadable by a Writ of Right-Close; 14 H. 4. fol. 1. and 34. Fitzh. fol. 14. C.

Tenant by Copy which holds by the Verge in Ancient Demesne,

Demefne, commits Felony and was attainted, the King hath
year, day, and waste, for that, that the Freehold was in
the Tenant in Ancient Demefne, and yet they have no
other evidence then Copies of Court-Roll: Otherwise it
is of meer Copyholders which are out of Ancient De-
mefne, for the Freehold is in the Lord: I have feen in
the County of North, Copyholders of Frank-tenure out
of Ancient Demefne, and have used a Writ of Right
Close, and having no other Evidence but by Copies, ac-
cording to the Custome of the Mannor, but their Copies
are not at the will of the Lord: 3 Ed. 3. tit. 2. 22. Stan-
ford fol. 50.

Jo. Fitzh. xi. Copyholders of a half Tenure shall not have a Writ of Right-Close, but ought to sue by Bill in the Lord Court.

to the next Assizes, Rights-Cloth shall always be between Plowholder; and no Plowholder may implead another Plowholder of Land within Antient Drunges, unless by this Writ, and shall make his profectionation to sue in name of what Writ he will.

Britain, following, 'Call Tenants in ancient Domesday
Plow-holders; and faith, That Plow-holders are such
which gain the Land.

Fitzh. 14. D. Those Tenants in Ancient Demesne, which hold by the Verge by Copy at the will of the Lord, shall not have (*Monstraverunt*) against their Lord.

Where a Copyholder enters, and dies before he was admitted Tenant.

IT was held in the Case of one Howard, That where
a Copyholder hath a daughter by one Belly, and a Son
and daughter by another, and dies, and after the Son
dies, and dies before admittance, then the Daughter of
the second Belly shall have the Land, for it is a possession
of the Brother. And so it was adjudged in the Case of one
Storer.

These

*These Cases following, I heard agreed
for Law.*

THE Tenant by Copy surrender generally into the hands of the Lord, and it do not appear who shall have the Land, nor to what use the Surrender is, then the Lord shall be seized to his own use.

If Tenant by Copy let for years by License of the Lord, and after release to the Lessee by these words in the Court (*Remise and Release*) it is void, for that it ought to be surrendered into the hands of the Lord, and then the Lord ought to grant the Reversion to the Lessee; for by *Littleton*, fol. 19. It cannot pass without surrender, and yet a release is used of Copyhold in the Court in the presence of the Steward.

If the Lord grant parcel of his Demefn Lands to hold by Copy, to one and his heirs, this Copy is not good, but at the will of the Lessor; for one cannot make Copyhold at this day, but that shall be by Prescription, which hath been demised and demisable by Copy, time out of mind, &c. But if a Copyhold be escheat to the Lord, or he enter in that by forfeiture, and at this day grant that over to J. S. by Copy, this is good Copy: And yet in 13 H. 4. fol. 7. If Lands in Ancient Demefn are escheated, and the King seifeth them, and grants them over to J. S, they are Frank Fee, and not Ancient Demefn.

6 H. 4. fol. 2. But if a Copyhold shall be escheated to the Lord, and twenty years after that, he grants them over by Copy again, they are Copyhold as they were before; for that, that this Land hath been demised and demisable time out of mind, &c.

If two be Joyned Tenants by Copy, and one of them makes waste in all the Land, that shall not be forfeiture, but for his part, and also if a stranger cuts Trees and makes waste without Assent of the Copyholders, it is no forfeiture.

If the Lord of a Manory, to which there are Copyholders, grant by Copy the Tenements of one Tenant Copyholder, without just cause to another Tenant in Fee, or for Life, and the Grantee enter by vertue of this Grant, the Tenant which had Right, and which was admitted before, may have a Pleint in nature of an Assise of Novel Disseisin against the Grantee.

If the Husband surrender into the hands of the Lord, to the use of his Wife, and doth not say A. his wife; it is a good Surrender, for she is certainly known by that name: The same Law is, if one Surrender into the hands of the Lord, to the use of J. his Son, and hath two Sons named J, it is to the use of that J, which it is meant to.

If Tenant by Copy, surrender his Lands by Custom of the Mannor, or two good men out of the Court, to the use of a stranger, and that made for money paid, he which surrendered cannot countermand his Surrender, before the two good men have presented it at the next Court; for it is much like acknowledging of a Fine before a Justice of Record; but where the Surrender is to two, to the use of his Wife or Son, and not to a Stranger for money paid, by one lying in extremity in peril of death; and after he revives, he may well countermand his Surrender, before it be presented in Court, or after, if it be not by that admitted afterwards; and that is often used, and stands with reason, and so is the Law as it seems to me.

If Tenant by Copy of Court Roll be attaint of Felony or Treason, the Lord of the Mannor may enter; for Tenant by Copy is but Tenant at will, according to the Common Law, though he hath Inheritance by the Custom.

If a Copy holder Surrender into the hands of the Lord, to the use of another and his heirs; if the Lord will not admit him Tenant, then the Land shall remain in him which made the Surrender; and yet he to whose use it was made, may sue by a Petition, or by a *Subpoena*, to be admitted.

If one which hath no right, and was not admitted, surrender to the use of another; and he to whose use the Surrender is made, enters into the Land, and is admitted; yet he which hath right may re-enter, and oust him, notwithstanding the Grant of the Lord.

But it seems, If a Copy-hold descends to J. S. and he before that he is admitted Tenant, Surrender that to the use of J. D. and the Lord by his Steward in Court grant Seisin, and admits him Tenant; it is said to be a good Surrender, and J. D. shall enjoy the Land against J. S. and his Heirs: Seek, for in the case against *K.*, the Issue was, if he were admitted according to the Custom of the Mannor, or not, and

and yet this is no disproof of their Opinion; but if a Copy-holder Surrender to the use of J. S., J. S. cannot Surrender before he be admitted.

The Lord of the Mannor (where the Custom is that the *Chancellour*? Tenants hold by Copy) is Chancellour within the same Court, and may redress matters there in conscience where a Bill is exhibited to him, so that the Copy-holders are no *Sutors*. Judges in the Court.

If an under-Steward hold a Court Baron without authority of the Lord or high Steward; and the Lord agree, and do not contradict the Steward, and there be Surrenders made, and Admittances of Copy-holders in the Court, this is good; but if he take a Surrender, and admit one out of the Court without Authority of the Lord or High Steward; it is not good: notwithstanding a lawful Steward, as it seems, may take a Surrender out of the Court; and Admittance made out of the Court is good, if it be entred in the Court-Roll, that he is admitted, and hath paid his Fine, and hath done Fealty.

And if one holds but one Court by appointment of the Lord, where another hath a Patent to be Steward, and is absent; Surrender taken, and entred in this Court is good, and also is admittance, 2 Ed. 6. tit. 26.

Note, that the High Stewards are for most part men of honour, and great men by patent; and their under-Stewards are men learned, and are appointed by them, and without Patent; and the use is, that they which are under-Stewards to such men, take Surrenders out of the Court, and they are well taken by such under-Stewards, and the parties are admitted in the Courts held by them, that is in open Court; and also no doubt, when such under-Steward takes Surrender out of the Court, and that is presented by the Homage, as the usage is in the Court, and the party admit accordingly, this is good; for without Authority these are not: for if J. S. make a command to the Bayliff, to warn the Court to be held such a day; and it is warned, and J. S. keeps the Court, and is not contradicted by the Lord: Surrender taken by this J. S. out of the Court, and presented and entred in this Court, is good, though that J. S. have no Patent of his Office, for it is not without Authority; for if he cannot keep Court without a Patent, then to every

Court it behoveth the Steward should shew his Patent, which is not used, and was never in issue, whether the Steward had a Patent or not, nor if J. S. be Steward or not, and especially if he keep his Court warrant by his command by divers days, before the Court kept; or if the Lord agree that he shall keep the Court, and it is inconvenient that for defect in the Steward which makes Surrender out of the Court, and enters it in the Court by the allowance of the Homage; but that it should be good, otherwise one may say, thirty or forty years after, that the Steward had no Patent of his Office, which is inconvenient, and ought not to be.

Where the Steward of the Bishop of London, of his Manor of *Marjay*, hath a Patent of his Office, with confirmation of the Dean and Chapter by the name of *Adhelred Fitz-james*, where the name was *Leholdred*: Surrenders taken by him out of the Court, and at the next Court he entered, it is found by the Homage that such Surrender was made, &c. and at the same Court the Tenant is admitted accordingly, and though that his Patent in time of the Successor after in Assise against him be defeated by mis-claiming or by other cause; yet the Surrenders taken by *Adhelred Fitz-james* (during all the time of twenty years before this Patent was defeated) are good and perfect, for that, that the Surrender was; it is found by the Homage, and also for that he was the known Steward, and also for that he is Judge, 33 H. 8. Br. charge 58. confirm 30.

The same Law seems in the same case, if the entry were, it is witnessed by the Steward, or at this Court it is enrolled, so, that is to say, that J. S. came before the Steward (the Court being absent) and surrendered, &c. and in full Court the admittance is accordingly, that is a good Surrender, though it be not entered, it is found by the Homage, &c. for the entry of admittance is.

The Lord by *A. Fitz-james* Steward, gave him Scisin thereof, and it is that the Lord by his Steward admitted him; and for that it is good, inasmuch that it is the Assent and Grant of him which surrendered, and also of the Lord.

The same Law, if the high Steward to J. S. which hath no Patent in writing of his Office, takes a Surrender out of the Court, and at the next Court enters that, at the next

Court

Court it is enrolled; so that J. S. came before the Steward (the Court being absent) and surrendered, they said such whose use the Surrender was made, he admitted in full Court; this is a good Surrender.

The same Law is like, if J. D. be a Steward in a Corporation, without a Patent of his Office, and makes Surrender as above, out of the Court; and at the next Court comes, it admits Court enrolled, so that J. D. such a day comes before J. D. Steward, and surrenders, and then whose use the Surrender is made, is admitted in full Court; this is a good Surrender, for that, that the Steward both in a Court of Copy-hold, he altho' it is Judge, and is allowed Judge by the Lord.

The same Law is, if the Servant which is out-troved in a personal Action, or less considered, makes a Surrender out of the Court, and at the next Court comes, he is admitted by the Steward; and such a Surrender is made, and admits him, to whose use the Surrender was made in full Court, though it was not found by the Homage; yet this Surrender is good.

If a Judge or Justice be out of his Writ, yet the Fine, Judgments, and other Records which were before him, shall be good; but contrary, the Gift of an Office, or such like by him, for that is a matter in Deed, and the writs are matters of Record; for a matter in Deed may be avoided (by being out of his writ); contrary of matter of Record, 1 Mar. Tit. *Dum non fuit compos mentis* 7.

The same Law is, if the under-Steward takes a Surrender out of the Court, and at the next Court makes his Entry of it; at this Court it is witnessed that J. D. Surrendred, and in full Court he to whose use the Surrender is made, and admitted; this is a good Surrender, though it be not also (it is found by the Homage) for when the full Court, he is a Judge between the Lord and the Copy-holders; and yet, as Ed. 6. Br. Court Baron 20, and Copy-hold the 25, if the under-Steward holds a Court Baron, and in full Court grants Copy-hold without the Authority of the Lord, or High Steward, this is good; contrary Law, where it is done out of the Court; for it is said, if the under-Steward grants Copy-holds, it is in trespass, and is void, with any bar of the Court without Authority, is not good; for it is, the Lord granted by the Steward, and for what the

Steward granted, for he cannot grant. And also the High Steward may admit out of the Court, by special usage and custom within the Mannor used; for one which holds by Copy of Court-Roll, ought to have his Estate entred into the Court held, and his Admittance to be entred in the Court; and for that if the under-Steward or the High Steward which hath no patent, as above, take Surrender out of the Court, and present that in Court, and the Tenant be in the Court admitted; it is good, for it is the Lord by his Steward hath admitted; and the admittance makes a Copy-holder, and the Entry of that in Court makes him Tenant by Copy of Court-Roll; for Copy-holder is he which holdeth by Copy of Court-Roll; so where one is admitted in Court, and the Lord allows a Steward, 'tis good.

If a Copy-holder of an Estate in Fee, according to the Custom of the Mannor, by License of his Lord lett for twenty years, rendring forty shillings yearly, he may have an Action of Debt in the common place for this Rent; or as it seems he may distrain and avow, and yet the Avowry is in the nature of an Action real; and it seems, no doubt, if the Rent be reserved by Deed Indent, but that he may distrain and avow; and yet if (he to whose use) before the Statute of 27 H. 8. letts by Indenture for years, rendring Rent, he to whose use shall have debt for that Rent, but he cannot avow; and if the Lessee in this Case make waste, he to whose use, shall not have an Action of Waste, 26 H. 8. fol. 8.

The same Law is, where a Copy-holder by the Custom of the Mannor is not punishable for Waste; by License of the Lord, makes a Lease for thirty years, and the Lessee makes Waste, the Copy-holder shall not have a Writ of Waste, but shall shew in the Lords Court, to punish his Waste by Plaint, in nature of an Action upon the Case.

If a Copy-holder of an Estate Tail, by license of his Lord, lett for twenty years, rendring the ancient Rent, and dies, the Issue in Tail may enter and defeat the Lessee; but if the Tenant in Tail of Copy-hold lett for forty years by the Lords license, and after the Lease, make forfeiture of his Copy-hold, and the Lord seises it, and grants that over again by Copy to the Tenant in Tail, and his Heirs, or to J. S. and his Heirs; it seems there the Issue of the Lessor,

nor J. S. nor the Lord, cannot enter and defeat this Lease.

The same Law is, if a Copy-holder of an Estate-tail lets for forty years by the Lords License, and dies, and his Issue Surrenders to J. S. and his Heirs; this Issue, nor J. S. cannot enter and defeat this Lease.

Ad hac Curiam venit T. R. & petit licentiam a domino dimittend⁹ omnia & singula terr⁹ & censementia sua customas, scituata, jacent⁹, & existenti infra dominium istud, cuicunque personæ, sive quibuscunque personis placuerit eidem T. R. pro termino & ad terminum viginti & unius annorum, proximi sequent⁹ dat⁹ hujus Cur⁹. Cui quidem T. R. Dominus licentiam dedit in forma prædict⁹, pro fine decem solidorum solut⁹ in Cur⁹, ad usum dñi hujus manerij.

And it is used, that the Steward in full Court Licenses a Copy-holder, to lease a Copy-hold for 20 or 30 years, more or less, at their pleasure, in the absence of the Lord; and this seems good, for he is Judge in the Court; and when he makes it, and enters it in the Court-Roll, the Lord cannot enter for Forfeiture, because of his Lease; for when the Steward hath entered it, that at this Court T. R. craved license of the Lord to lett, &c. to whom the Lord gave license, &c. The Lord is estopped to say the contrary, but that he gave license; the same law is, where a Copy-holder is admitted in Court, and is entered in the Roll, to whom the Lord by such a one his Steward, granted him Seisin, the Lord cannot afterwards gain-say this admittance; and this is to be collected of the Case aforesaid, in 2 Ed. Brook. Court-Baron 22.

If a man lets a Mannor for years, in which are Copy-holders, and after a Copy-holder dies, the Tenant of the Mannor grants the Land by Copy for three lives, this is good; the same Law is, if a Copy-holder of Inheritance Surrender in the Court of the Termor of a Mannor, to the use of one and his Heirs, it is good; so that the Lord for the time being may take such Surrender in this Court; but in the first Case, such a Termor of a Mannor cannot lett a Copy-hold, reserving less Rent then the ancient Rent, but ought to reserve the ancient Rent or more; 4 Mar. 1.

But it seems if a Disseisor of a Manor be, and the Disseisor Teises a Copy-hold by Forfeiture, or Escheat, and grants that over by Copy to a stranger, and the Disseisor enter in the Manor; this Surrender shall not bind the Copyholder; and yet if a Copy-holder of Indivisible Surrender in the Court of the Disseisor, to the use of J. S. and his Heirs; this is a good Surrender, and shall not be avoided by the Disseisor, nor otherwise by him which Surrenders, nor by his Heir.

In pleading of a Copy is, that the Lord by such a wife his Steward did demise, and not that the Lord did demise, and also that a Woman be alone, and privately examined by the Steward; and it behooveth in pleading, to say, By such a Steward, and name the name of the Steward, and for that it is good order to express in the Copy and the Court Roll; that to this Court came J. S. and after his wife (the alone, and privately being examined by J. K. the Steward) there, and to set the name of the Steward in every Copy, and also to every Court-Roll, for pleading in divers Cases, as the Lord by J. K. his Steward, granted him seisin by a Rod, &c. 3 H. 5. fol. 4. and 10 Ed. 4. fol. 6.

Limitation.

The Statute of 32 H. 8. chap. 2. extends to Copy-holds; for the Statute is, that none shall make prescription, title, nor claim, &c. above forty years, &c. and that both a Copy-holder, and for that is within the Statute, 6 Ed. 6. Brook Limitation 2.

38 H. 8. chap. 1. Copy-holder, which is Tenant in common, is not compellable by the Statute to make partition; for the Statute gives remedy for one Demand in common against another, by a Writ of (making partition) and it seems that a Copy-holder is not within the Statute of 27 H. 8. chap. 12. of Joynure of Women; for that Statute binds Women which have Joynures before Marriage, to have Dower, that is, of Lands given in Dower by this Law, and not by Custom.

Where a Copy-holder by the Custom may Surrender his Land out of the Court, into the hands of the Lord, by the hands of two Copy-holders, or one to the use of J. S. and
a Copy-

a Copy-holder to makes Surrender to two, and one dies, or both die before the next Court, and yet Homage finds it; this is good Surrender, and J. S. shall be admitted.

Tenant by Copy of Lands of the nature of Gavel-kind, hath Issue two Sons; his eldest Son hath Issue a Son, and dies seized; this Land shall descend to the youngest son, and to his Nephew: the same Law is, if the Son have Issue a daughter, and dies seized, the daughter and the youngest Son shall have this Land by descent; and yet the Statute of *Preorg. Regs.* chap. 16. is, that women shall not have Gavel-kind.

Tenant by Copy surrenders to the use of one for life, the Remainder to the use of the most near in blood, and hath Issue two Sons; the eldest hath Issue, and dies; the Tenant for life dies, the youngest Brother shall have the Land, and not the Issue of the eldest Brother; for the youngest Brother is more near of Blood to his Father, than is the Son of his eldest Son, by *Mich. 30. An. 47.* but the youngest Son is not next Heir.

Where the Copy-hold is of the nature of Burrough-English; and this Copy-holder having three Sons, surrenders this to the use of the youngest Son in Tail, the Remainder to the use of the Heirs of the Body of the Father ingendered; and for default of such Issue, to the use of the right Heirs of his Father; and the youngest Son dies without Issue of his Body; it is said, that the eldest brother shall have this as Purchaser.

Two Joyn-tenants of one Copy-hold are; and one Surrenders his part to his companion for life; this is a Tene-
rance of the Joynure, *Lit. fol. 56.*

Where the Custom of a Mannor is, that the youngest Son shall inherit by descent the Copy-hold; and A. being a Villain, purchases Copy-hold there, and the Lord leases them, and grants them out of his hands by Copy, the youngest Son of the Grantee shall have this by descent.

If the tenant by Copy of Court-Roll hath paid to his Lord more Rent than he ought, and the Lord of that Surplusage of Rent was seized by the hands of his Tenant; yet the Tenant shall avoid that in Avowry, for he is but Tenant at Will by the force of the common Law; otherwise it is, of every Tenant Charter Land.

Where

Where a Copyholder in Fee surrenders into the hands of the Lord to the use of J. S. without more, all is in the hands of the Lord; and the Steward admits J. S. hath an Estate in Fee, and yet the admittance is but allowance of J. S. to be Tenant of such Estate which is surrendered; but the use is in most Courts to enter, that it was surrendered to the use of J. S. without more, and the Steward enters, that the Lord hath granted to him Seisin, to have to him and his heirs, and taken good; But it is better when one surrenders into the hands of the Lord to say and enter, To the use and behoof of J. S. for life, or to the use and behoof of J. S. and his Heirs: So that by (to the use and behoof) the Estate is limited, that J. S. shall have it, and makes that admittance accordingly to be good without doubt, and yet the other is good, for by the Surrender, all the interest is in the Lord.

If the Homagers gives false Verdict in the Court of Copyhold, the party shall not be bound, but he shall traverse that: But if such a Verdict be found for the Lord, though the Verdict be false, yet the party cannot traverse that there, but is put to his Petition, touching his Land, or to sue in the Chancery; for if the Verdict find false, that waste was made in the Tenements of the Grand-Father, the son of the Father shall lose after his Land, for that it is a forfeiture which runs with the Land. But *Quare*; for it is made by the person of the Father, and the Son hath no remedy if the Verdict be true; but if the Verdict be false, this his remedy is by Petition, and by no other remedy in the Court.

If Tenant by Copy makes a Lease for years by License of the Lord, and after in the same Court the Tenant will release to his Lessee by such words (to remise and release) such release seems void, for that it ought to be a surrender into the hands of the Lord, &c. as he hath surrendered and released, &c.

Use may be of Copyholds, as well as of Freehold, but the Statute of 27 H.8. for uniting the possession to the use doth not extend to such tenures: Nor (he to whose use) cannot forfeit the Land by cutting Trees, if it were not by the consent and commandment of the Copyholder. If the Lord let several Copies for one intire Rent and Service, and the Tenant makes waste in any parcel of them, and that be presented.

presented in this Court, he shall seise all the Copy as it was intirely lete.

A Rent of a Copyholder may be apportioned, as well as another Rent.

Tenant by Copy of a Court-Roll in the Court, sold and bargained his Copyhold to J. S. and his heirs; J. S. was admitted to have to him and his heirs according to the custome, this is not good, for that it wants this word (Surrendered.)

Tenant in tail by Copy, the remainder over to J. S. in Fee, surrenders his Lands into the hands of two Tenants, to the use of J. N. and his heirs, and dies before that be presented; and after that was presented, and J. N. admitted, this is not good; but contrary Law, if Tenant in Fee had made that Surrender, and died, as above: *Quere.*

By the Custome of a Mannor, some Lands are Copyhold for three lives, and some to them and their heirs, and the Lord grants by Copy that which was for three lives; after those three were ended, to one of his heirs; this is not good: the Custome of the Mannor is good, though there be several Copyholders of several Customs.

The Lord of a Mannor, within which are Copyholders, and the Lord grants the Demesns over to J. S. in Fee, so that he hath no Court; yet it is said, that the Copyholders may surrender as before they did: And that the Lord by his Grant cannot destroy their surrender, and Copies.

The Lord may avow for Rent of his Copyholder before admittance, where it descends to a Copyholder before; but he shall not be sworn of the Homage before admittance.

If the custome of Copyhold be, that the Lord may grant for three lives, if all die, and then when the Land is come into the hands of the Lord; he is bound in a Statute, and after he grants that over according to the custome, this Land shall not be extended upon the Statute.

And if a Copyholder be bound in a Statute, his Copyhold Land shall not be extended; and if the Lord be bound in a Statute, the Land of the Copyholder shall not be extended.

If an Infant be a Lord, and admits a Copyholder to him, and to his heirs, this is good, and he cannot avoid that by
his

his Infancy, for he is but an Instrument to convey that according to the custom, and departs with no estate.

If a Copyholder will exchange, this is not good, unless there be a surrender and admittance.

If a Villain purchase Copyhold, and the Lord of the Villain enter, he shall not have possession of the Copyhold, till he be admitted.

Copyhold shall not be forfeit by attainder of Heresie, for the blood is not corrupted, for the Statute of 2 H. 5. is not to be intended of Copyhold Lands: for it is said by the Statute, That he shall forfeit his Lands, Tenements, and Hereditaments: and that the Lord of whom the Lands are held, shall have the Lands after the King hath (year, day and waste) and this is intended of Freehold, and not of Copyhold: but if a Copyholder be attainted of Treason or Felony, as it is aforesaid, there the Lord shall have the Land, for that the blood is corrupt, and so there is none to inherit; but, by attainder in Heresie, is no corruption of blood.

If a Copyhold be surrendered to my use simply, and the Lord admit me upon condition, this condition is void, for the Lord gives nothing, but is an instrument to convey that according to the Surrender: so if it be surrendered to me for life, and the Lord admits me to have to me and my heirs, it is not good.

If a Copyholder of a Mannor takes a Lease for years of this Mannor, Quære if his Copyhold be extinct.

But if a Copyholder make a Lease of his Copyhold to his Lord, this was no extinguishment of his Copy, but a suspension.

But if the Lord by Indenture make a Lease for years of Copyhold Land to his Copyholder of that, the Copyhold is there held to be extinct, so if the Lord make a Feoffment to his Copyholder of all his Mannor upon condition, and after enter for the condition, the Copyhold is extinct; and if a Copyholder take a Lease for years of the Mannor with a remainder over by Indenture, this extincts the Copyhold.

If a Disseisor be of a Mannor whereof there are Copyholders for three Lives, and he grant Copies for three Lives, and after the Disseisor enters, this shall avoid the grant of the Copies by the Disseisor.

But

But if the Lord of that Mannor make a Feoffment in Fee upon condition, and the Feoffee grant Copies for three lives, and after the Feoffor enter for the condition broken, he cannot avoid the Copies.

If Tenant in tail or in Fee of a Mannor will grant Lands by Copie, which were no Copyhold Lands before, and that hath continued by divers admittances after as Copyhold, and was never interrupted at any time by the Issue in tail, but hath been allowed for him, so that, that hath continued by sixty or eighty years, this is very good, and shall not be ever after avoided; but if it may be shewed to have been an Interruption, then it is otherwise.

25 Eliz. If a Copyholder Surrender to the use of his Wife for life, the remainder to him and his Heirs, and after the Husband Surrender to J. D. and his Heirs, and die, the Wife may enter, by Dyer and Mansfield, Judges, and shall hold for life, but the Heirs of the Husband are bound: otherwise it is in the remainder were to the right Heirs of the Husband, for they are purchasers of this remainder, and may enter after the death of the Wife.

A Copyholder hath a Son and a Daughter by one Belly, and a Son by another Belly, and surrenders to the use of his Wife for years, and conveys after her death the remainder to his son of the first Marriage, his Heirs and Assigns, and after the Tenant for years is admitted, the Remainder in form aforesaid, the son of the Belly dies without Issue, before admittance and during the Term; and thereafter, that the possession of the Wife of the Tenant, or of the Guardian is a sufficient possession to make (a Brothers possession).

16 Eliz. Mannsfield saith, Copyholders are within all Statutes which speak of Tenants; for if a Copyholder had not been excepted in the Statute of Dissolution of Monasteries, the King had had them, which Gifford and Hendlowes graunt.

The Husband by Surrender dispossesses the Copyholder which he hath in right of his Wife, the Wife is put to her (Cui in vita), and she is not aided by the Statute of 34 H. 8.

24 Eliz. A Copyholder surrenders to the use of his last Wills and devise, that his Executors shall sell the Land to J. S.

J. S. and makes two Executors and dyes, and one Executor takes a Wife, and surrenders to the use of J. S. the Devisee ; and was said, that by the admittance of J. S. that he was Copyholder, though that the surrender ought to be made by both the Executors.

Tail of Copyhold.

Estate tail may be of a Copyhold, and Formedon in Descender may lye of that; that is to say, may sue plain; and make protestation in nature of a Formedon in Descender at the Common Law, and good by all the Justices, for though a Formedon (in Descender) were not given but by Statute, yet this Writ now lyeth at the Common Law, and it shall be intended that that hath been the Custome, time out of mind, &c. See *Littleton, fol. 14.* Plaint in nature of Formedon in Descender ; and also *Littleton* saith, *That Copyholder is, where within the Mannor the Tenants within the same Mannor have used time out of mind, to have Lands or Tenements to them, and to their Heirs in Fee-simple or Fee-tail.* And though that the Statute of *Westmst. 2. chap. 1.* is, That the Will of the Giver in writing should be observed (so that Copyhold is not within the Statute) yet in these Mannors, within which, time out of mind, they have been used to have Estates in tail in this Mannor, and not in others, are Estates tail of Copyholds; 15 H. 8. tit. 24.

And now it is common usage, to cut off the tail of Copyholds, within such Mannors where there is an Estate tail of Copyhold, by common Recovery in the nature of a Writ of entry in the (*Post*) which after follows ; and also by Recovery in nature of a Writ of Right, and joyn the *Mise* as follows afterwards ; and another way is to cut off the entail, and that is by Presentment; that the Copyholder hath made a Lease by Indenture for divers years, or other forfeiture, and then the Lord to seise for that, and to surrender to the Purchaser, and these two wayes are allowed for good.

It is said, that five grounds of Law in *England* is and have been in divers particular Customes, the which Customes, though they are against the general Customes of Law, yet they are in effect, and are taken for Law; and so

I intend that this Custome of Copy-hold-Estate (for that, that it hath continuance by Prescription) is good by the Law, that the Copyholder hath an Estate by Custome and Law also, and that of that may be an Estate Tail where that hath been used by Prescription. *Doffor and Student, fol. 20.*

Copy-Holders.

Copy-hold Lands were before the Conquest, and it was called Folk-land in the time of the Saxons, and the Charter-lands are called Bock-land: and also *Braſton*, book 4. allows of Copyhold Land, and sayes, *That doing their services and Customes, their Lords cannot put them out:* And so Copyhold Estates have in time of every King since the Conquest by all the Justices been allowed; so that for the ant quity, and their continual allowance from time to time the Estates of Copyholds are affirmed in Law, yet *Fitz. fol. 12. B.* saith, That Copyholders in Ancient Times, were called Tenants in Villenage, or Base Tenure: But this doth not make them Villains; for *Littleton, fol. 39.* saith, That some Freemen hold their Tenements according to the Custome of certain Mannors, by Villain Services, and yet they are not Villains; and though at the beginning of Copyholds, they had but a base Estate, and at the will of their Lords, yet when they have continued their Estates by Copy, of time out of mind, then doing their Customes and Services, as Copyholders ought to do, they ought to enjoy heir Copyholds wherher the Lord will or no; and it appears by divers Statutes, That Copyholds have been in reputation; for by the Statute of 1 R. 3. chap. 4. and 19 H. 7. chap. 13. Copyholder which might expend by the year 26 s. 8 d. shall be accounted of the same sufficiency to be impannelled of a Jury, as he which might expend 20 s. *per annum*, of Free-hold Land, and by 2 Ed. 6. chap. 8. the Interests of Copyholders are preserved, notwithstanding they are not found by Office after the death of the Kings Tenant; and by 13 Eliz. chap. 7. Land of a Bankrupt, as well Copyhold as Freehold shall be sold; so it appears, Copyhold Estates shall be regarded; and those

Demefnes which are in the hands of the Copyholders, are fuch Demefnes as the Services which they do, make a Manor though the Lord have no other Demefnes in his own hands nor to his Farmors, Bayliff, or Servants; for it is Demefnes, having regard to the Lord, for that, that upon every Surrender the Lord hath medling, and grants it over in his Court.

And if you will admit that an Eftate tail by uſage of time out of mind, may be of Copyhold within a Manor, where it hath been uſed by Preſcription, and Plaints of (*Formedon*) have there been brought, why will ye doubt, but that it may be well cut off by common Recovery, in Plaint, in nature of a Writ of Entry in the (*Poſſ*) or at leaſt in nature of a Writ of Right, and *Miſe* joyned upon meer Right, and after default made by the Tenant, and Judgment final given, though that theſe Recoveries have not been uſed there by Preſcription, for they are at the Common Law, and plaints in nature of theſe Writs are to be ſued there of Copyhold.

It is ſaid, That a Fine levyed in Antient Demefne is of no worth, for it is no Court of Record; but it is ſaid, That common Recoveries may be ſued there, to cut off the Intail, and good, for that, that the Land ſhall be pleaded there by a Writ of Right Cloſe, and not otherwiſe, and Copyholder ſhall be impleaded in Court Baron of the Manor by Plaint, and not elſewhere. And for that the Recoveries aforeſaid, to cut off the intail of a Copyholder may be there, though they were not there uſed before, if there be Eſtates Tail there; and if uſage makes the Eſtate Tail, and alſo uſage makes the Copyholder to have an Eſtate of inheritance by Cuſtome, and is good, ſo Book of Aſſiſes, 9 47 Ed. 38.

And though *Lit. ton fol. 16.* ſaith, If Lord ouſts his Copyholder, he hath no other remedy but to ſue to his Lord by Petition; for he ſaith, the Lord cannot break the Cuſtome which is reaſonable; but if ſuch Lord will break the Cuſtome, it is no reaſon to ſuffer ſuch a Lord to be his own Judge, and to compell a Copyholder to ſue him by Petition. But for that that divers Lords are of more ill Conſcience, than before were, as I have heard; for that, divers grave Judges now hold that a Tenant Copyholder may have Treſpaſſo againſt his Lord according

ding to the Opinion of *Byan* and *Danby*.

And this at this day seems reason; for though at the beginning, Copyholders had but Estates at the will of the Lord, yet by the continuance of this Estate, of time out of mind, they have such Inheritance by the Custome of the Mannor, that the Lord (doing his Services) cannot out them; and the Prescription goes to the Land, and not to the Lord, nor to the Occupation, for that is Copyhold-Land which hath been let, and demisable time out of mind, &c.

If the Tenant by Copy deny to do his Services, the Lord may enter for forfeiture, if it be presented by the Homage; but if the Tenant by chance make a default at the Lords Court, and doth not deny his Service, it shall be amerced, and is no forfeiture; the same Law if his Rent be behind, and he doth not deny to pay it, that is no Forfeiture, but the Lord may distrain; but by *Littleton*, fol. 31. If the Tenant upon demand be not ready to pay Rent-seck; or if the Tenant, nor none for him, be dwelling upon the Land to pay the Rent-seck, when it is demanded; this denying is Disseisin; yet in the Case aforesaid, I conceive, that where a Copyholder makes default, and doth not deny his Services, or is not upon the Land ready to pay upon demand, this is no denial which shall make a Forfeiture; for Forfeitures are not favoured in Law; but to be taken strictly according to the words, and that is to be intended upon denying in Deed to the Tenant, 42 Edw. 3. fol. 25.

And it seems that the Lord cannot enter for forfeiture; before that that be found by Homage; but if a Copyholder alien by Charter, or commits Felony or Treason, and be attaint, these are forfeitures without Presentment, and the Lords may enter, for these are notorious, and apparent to be against the Custome; but otherwise it seems, where a Copyholder makes waste.

12 Eliz. It was said, That if a Copyholder will not be sworn of a Jury, or allien, and make Copyhold, Freehold; this is forfeiture, for that, that the Lord may enter without presentment; but for negligent acts, as for not doing of service or suit of Court, the Lord cannot seise without Presentment by the Homagers, and then agree if an Infant do not come within a year & a day after Proclamation made, yet he hath

Principall Challenge.

not forfeited his Copyhoid ; and this Case was between *Hautree* and his Copyholder.

If Copyholder lets by Indenture, which is forfeiture, and after surrenders to the use of J.S. and he is admitted in, the Lord after shall not take advantage of forfeiture, for the Homage are not to enquire of any forfeiture, but of forfeiture made by the Tenants, and he which commits the forfeiture is not now Tenant, and admittance to pay his Fine is agreement of the Lord, that he admitted shall have that according to the Custome; that is to say, he doing his services shall have that to him and his Heirs, according to the Custome of the Mannor.

It is said, that a *Copyholder* cannot alien by Deed, for if he do so, the Lord may enter for forfeiture; and so it is the like if he alien without Deed, in such manner that the Land may pass; as if he lets for life without Deed, and makes Livery, the Lord may enter; but if he do not make Livery, otherwise it is, The same Law is, if a *Copyholder* Bargain and sell his Land by Indenture, and do not enrol it, nothing passeth by this Bargain, and for that it is no forfeiture, *Litt. f. 14.*

If Tenant by Copy of Court-Roll make a Feoffment, the Lord may enter for forfeiture, but this is to be intended, if he make a Feoffment and makes Livery, it is a forfeiture; but if he makes no Livery, the Feoffee is but Tenant at will, and it is no forfeiture, 11 H. 4. f. 161.

Challenge.

For that, that you try Issues joyned in Court Baron by assent, by inquest of the homage, as you may, and not by wager of Law as it is, and also in tryall of Copyholds shall be by Oath of the Jury; and also for that some Challenges are Principalls, and some are but for favour, first let us see what is a Principall Challenge.

Prin cipal Challenge is said, where it is evident favour, as kindred, 21 Ed. 4. fol. 11. & 63.

Juror is of alliance, servant, or bears malice, that is to say, hath Trespass against him, or a Juror is Cousin to the Executor

curor which brings the Action, and yet he shall not recover to his own use; and this is a principal Challenge, &c. 20 Aff. ii.

Where a Juror is Gossip of the Plaintiff, it is a principal Challenge, and he shall be drawn off by the Challenge, 2 H. 4. fol. 16. 4 Ed. 4. fol. 1. the same, 19 H. 6. fol. 66. Contr. 6 H. 6. fol. 40. 40 Aff. 20.

That the Plaintiff was retained with a Juror, that is, that the Juror was Master of the party, is a principal Challenge, 2 H. 4. fol. 14.

That the Jury hath past before for parcel of the same Gift in *Formedon*, is a Principal Challenge, if he shew Record of that, otherwise it is but favour, 8 H. 5. fol. 11. and 7 H. 4. fol. 11. the same.

If a Juror (after he is impannelled) eat at the Plaintiffs costs, or take money for his Charges; it is a Principall Challenge, 13 H. 4. fol. 14. 22 R. 2. Chal. 177. 8 Ed. 3. fol. 69.

Where Land is demanded, and the Juror is Cozen within the ninth degree, it is a Principal Challenge, 41 Ed. 3. fol. 9. 14 and 15 Eliz. Plowd. 426.

It is a Principal Challenge that the Juror held of J. S, that holds over of the Plaintiff, 13 H. 6. *Statham*.

Where a Juror hath a Lease of one party; and though he hath granted his Interest to another, yet he is within the distress of his Lessor, to the using an Action of Debt for the Arrearages, and for that is a Principal Challenge, 44 Ed. 3. fol. 5. 44 Aff. 23.

Trespas, the Defendant saith, it was the Free-hold of J. S, and justifies as Servant of J. S, is a principal Challenge that the Juror was within the distress of J. S. to E. 4. f. 11. B.

Trespas, where the Defendant justifies as Servant to the Lord *Dacres*; it was a principal Challenge, that the Juror was within the Distress of one which held of the Lord *Dacres*, 15 Ed. 4. fol. 18.

It is a principal Challenge, that the Juror is Cozen to the Wife of the Defendant, for that, that the Issue of the Wife may be Heir to the Juror, 8 H. 6. fol. 15.

That the Juror at another time had past against him in the same Issue, if he shew the Record: it is a principall Challenge, and otherwise but for favour, 11 R. 2. tit. 106. 21 Ed. 4. fol. 74. before 7 H. 4.

Juror was challenged for that, that at another time he past against the Plaintiff for the same Debt, which was reversed by Error; and for that, that he did not shew the Record, it is no principal Challenge, 33 H. 6. fol. 1.

It is a Principal Challenge that the Juror was chosen Arbitrator for one party; but otherwise it is, where he was chosen indifferent for them, 3 H. 6. fol. 24.

That the Juror held of a Mannor, whereof the Reversion is in the Plaintiff, is a Principal Challenge, 10 H. 7. fol. 20. 49 Ass. 1. that the Juror was of Council with the Plaintiff, and hath taken his Fee; this was the Challenge, and 7 H. 7. fol. 10. that it is no Principal Challenge.

It is a Principal Challenge, If the Sheriff or Bayliff which makes the pannell is Son-in-law to the Defendant, 9 Ed. 4. fol. 46.

Those which have been attaint of false Oath, or were seen in the Pillory or Tumbrill, or against whom there was judgment of life and member, shall be outed by Challenge; and these are Principal Challenges. Britton, fol. 134.

Those which pretend to have some right in the thing demanded, shall be outed by Challenge, and this is a principal Challenge; the same Law, that the Juror is a Villain, 9 Ed. 4. fol. 17. Villain is Principal Challenge, 26 Book of Ass. 28.

That a Juror was out-lawed, is a Principal Challenge, if he shew the Record, 11 H. 4. fol. 40. Abridg. Book of Ass. 6. and 21 H. 6. fol. 30.

The same law that a Juror was attaint of Conspiracy 33 H. 6. fol. 55. 18 H. 8. fol. 8. fol. 2 Writ of Entry, they are at Issue; and the Plaintiff saith, that the Sheriff and two of the Coroners are his Cozens, and the other two Cozens of the Defendant, and prayes a *Venire facias*, to others, and shall not, unless all were his Cozens; for if it were made by the Cozen of the Plaintiff, the Array shall be quash; but the Defendant cannot quash the Array by that, that it is made by his Cozens.

15 H. 7. fol. 9. Plaintiff cannot quash the Array, for that that it is made by his Cozen; but may shew that, and pray a (*Venire facias*) to the Coroners; but because it doth lie in his knowledge, the Plaintiff may quash the Array, though the Sheriff be of consanguinity or affinity to the Defendant; but otherwise it is of his own part.

19 H. 8. fol. 7. Defendant Challenged the Array, for that it was made by J.S. Cozen of the Plaintiff; and this was found, and the Array quasht.

10 H. 7. fol. 7. The Array was quasht, for that, that the Plaintiff was Gossip to the Son of the Sheriff, or for any other cause of the Plaintiff.

15 Edw. 5. fol. 23. Trespas by the Arch-Bishop of Canterbury, and they were at Issue, and the Plaintiff saith, that the Sheriff is his Steward; and some of the Coroners are of his Robes, and the rest within his Distress, and the Defendant confest it; and for that process issued out to Choosers, and the Array by Choosers shall not be quasht, but (the heads.)

18 Edw. 4. fol. 8. Where the Array is made by Choosers; this shall not be Challenged, but the (heads) shall be Challenged.

8 H. 6. fol. 60. The Array in Assise was quasht, for that it was made by the Sheriff himself, being Plaintiff; and it was also quasht, for that it was made by the Coroners at the denomination of the Plaintiff, for that the Court of Office, awarded *Venire facias* to Electors.

The Challenge is principal { Cozen of one party;
 { Servant of one;
 { Master of one party;

At other times, { Brings Trespas against one,
 { Eats at the Costs of one,
 { Is Lord to one.

Challenges, { Is within the Distress of one,
 { Arbitrator of one.
 { Convict of horrible crime.
 { Hath right in the thing demanded.

Now let us see what is Challenge for favour.

V Here one Challenges for divers Causes, and concludes for favour, it is not double; otherwise it is, of principal Challenge, 7 H. 6. fol. 44.

That the Defendant is Steward of a Mannor of the Juror, or that he is within the Distress of the Juror, it is a Challenge

Challenge for favour, and not a *Principal Challenge*; but that that the Juror is within the Distrels of the Defendant, is a *Principal Challenge*; but that the Juror hath married the Mother of the Defendant, if she be dead, and he had no Issue by her, it is no *Principal Challenge*, 14 H. 7. tit. Brook 71.

The same Law where a Juror hath married a Cozen of the Defendant, which might be Heir to him, during their lives, it is a *principal Challenge*; but contrary, if the wife be dead without Issue, 14 H. 7. fol. 1. and 15 H. 7. fol. 9.

It is no *Principal Challenge*, that a Son of a Juror hath married a Daughter of the Plaintiff, 3 Edw. 4. fol. 12.

Juror is a Keeper of the Forrest by the Kings Grant, and the Plaintiff is Master of the Game, is no *Principal Challenge*, 16 Ed. 4. fol. 1.

It seems it is no *Principal Challenge*, if the Juror say, He will pass with the Plaintiff before he be sworn, or, that he was laboured, 21 H. 7. fol. 32. 7 H. 6. fol. 25. the same.

That the Defendant hath Trespass against the Juror, depending, if it were after the Action brought, it was suspicious, and is no *Principal Challenge*, 22 Book of Assise, 11.

If a Juror be challenged for that, that one party hath an Action hanging against him, if he do not sue Record of that, it is no *principal Challenge*, Staban, 25 Ed. 3.

That that Wife of the Sheriff, or for which makes the Pannel, is Sister of the Plaintiff, ought to conclude of favour, 20 Ass. 21. 26 Ass. 21. and 22.

Where a Juror is returned by name, Chamberlain, and Chambers appears; it is a Challenge for favour, and shall be inquired if he be known by both names, or not, 32 H. 6. fol. 23.

It is no challenge that the Juror is Parishioner with the Defendant, 22 Ass. 25.

Attaint; It is no *principal Challenge*, that one of the Grand Jury, and one of the Petty Jury, have married two Sisters, 43 Ass. 46.

In Attaint, it is no *principal Challenge*, that one of the Grand Jury, and one of the Petty Jury are at debate, 50 Book of Ass. 4.

Juror.

Juror was Challenged for malice which he had to the Plaintiff, and tryed, and found indifferent; 27 H. 8. fol. 25.

It is no Challenge, that a Juror appeared where he was not summoned, if he were impannelled, 8 Ed. 3. 69. Fitzh. Challenge 4.

It is no principal Challenge to say, That the Defendant is Tenant to the Sheriff or Bayliff, which makes the Array, unless it be for favour, 26 Ed. 3. Statham.

Common, is the seventh Article, which is inquirable.

AND for that I intend, that when the Statutes ensuing were made for Improvements, immediately the Lords have improved their Wafts as much as they could, or otherwise they could not improve for Charity, I pray God that they may continue.

Because many great ones which encoffed Free-holders of small Tenements in great Mannors of extent, &c. may improve, when they are encoffed have sufficient Pasture belonging to their Tenements, &c. Merton, chap. 4.

Westmin. 2. chap. 46. Recites Merton, and gives rate between Neighbour and Neighbour; and it is, Where it is belonging to their Tenements: But if one claim Common for a certain number by Grans, the Lord cannot improve.

16 Ed. 3. tit. 9. If the Lord improve, not leaving sufficient Common, the Commoner may break way to use his Common: See 17 H. 7. fol. 11. for breaking way, 22 H. 7. fol. ult.

Fitzherbert 176. L. Where one hath a Common belonging or appertaining, and is distrained, he shall have an Assise of Common of Pasture; seventh Book of Ass. 16.

8 Book of Ass. 18 Assise, Tenant saith, he hath improved leaving sufficient for the Plaintiff.

If a man grant Land and Common, the Grantor cannot improve against his Deed, 11 H. 3. fol. 25. that he cannot improve against a Deed, 3 Ed. 2. tit. 21.

If the Tenant have Common for all manner of Beasts, the Lord cannot improve; notwithstanding I have heard the Opinion of the Learned to the contrary, 34 Affise 11.

It was held, that no man might improve in Fields sowed where they have Commission, when the Corn is reaped and carried, and in time of Wreck; for the Statute is in Waste, and not in Fields: And also it is held there, That Cottagers shall have Common, but not a Cottager newly erected, for he cannot prescribe, 7 Book of Affise, 2. Journey to Leicester.

The Tenant shall not have Common to Land newly improved, but to ancient Land, hide, and gain, 10 Ed. 2. tit. 22. 5 Book of Aff. 2. the same.

The Statute is (as much as belongs to Tenements) that seems to extend as well to Common appurtenant, as appendant: But Master Stamford said in Grayes lane, That improvement is only against him that hath Common Appurtenant without number.

Now let us see, what is Appendant, and what Appurtenant.

Common Appurtenant is, for all manner of Beasts; and Appendant is, but to have Common for Beasts commonable, *Natura Brevium*, fol. 70. that Appurtenant is with all manner of Beasts by Prescription, 9 Ed. 4. fol. 3. by Fairfax.

By *Priscot*, Common Appendant is to have Common for Horses, Beasts, Kine and Sheep, which are Commonable, and which are most fit for the Plough-man, and not for Geese, Goats, and Hogs, 37 H. 6. fol. 34.

If one hath a Common of Estovers by Grant, he cannot build another new House to have Estovers to that, *Fitzh.* fol. 180. H.

Admeasurement lies between Commoners which have Common Appendant to their Free-hold; if one of them surcharge the common, by putting in more Beasts then they ought to Common, *Fitzh.* fol. 125. B. D.

He which hath common appurtenant to a certain number, or common by specialty to a certain number, shall be admeasured;

admeasured: But he which hath Common Appurtenant without number, or in gross without number, shall not be admeasured, 26 H.8. fol. 4.

Common Appendant cannot be aliened and severed, but Common Appurtenant may, 5 H.7. fol.7. B., and 9 Ed. 4. fol. 39. A.

He which hath Common Appendant cannot use that Common with other Beasts, but those which are arising and lying upon his Land, 15 Ed. 4. fol. 32.

Termor cannot put any Beasts into the Common, but those which he hath to manure his Land, or for his Household, and not for to sell, 14 H. 6. fol. 6.

A man grants Land, and a Turbary; this doth not make the Turbary Appendant, unless it were Appendant, from time out of mind, 8 Book of Ass. 9.

Common is to be taken by the mouths of Beasts, 31 H. 8. tit. 151.

Commoner hath no interest in the Land, but to take that with the mouth of his Beasts, and cannot have Trespass (why he broke his Close) against one which makes Trespass in the Common, but may distrain them in doing Damage, 12 H. 8. fol. 2.

There are four manner of Commons, that is to say, Common Appendant, Common Appurtenant, Common in Gross, and Common because of Neighbourhood. *Natura Brevium*, fol. 69.

Common Appendant is to Land arable only, 26 H. 8. fol. 4. by Hales. It seems it may be appendant to a Mannor, Land, or Tenements, Fitzh. 139. I.

It may be appendant by reason of a House, *Natura brevium* fol. 70.

Where one hath Common, because of Neighbourhood in the Land of J. S, he cannot put in his Beasts in the Waste of J. S, but in his own Land, which may go, if they will, into the Waste of J. S, 13 H. 7. fol. 13. &c.

Assise of Novel Disseisin lieth of Common of Pasture Turbary and Fishing, where he hath that for life, or in Title, or in Fee, and is disturbed, that he cannot take his Common; and the Writ shall be, *He disseised him of a Common of Pasture in D.* and not disseised him of his Free-hold in D, as where it is of Land, for there it is always, he disseised him of his Free-hold: Fitzherbert, fol. 179. L.

Common

Common Appendant, a man cannot use with beasts of a stranger, unless he keep them to dung his Land, but he cannot take in other Beasts for Money, which do not manure his Land. See 6 Hen. 7. fol. 14. Fitzherbert, 180. B.

If a man claim Common for Beasts without number, there he may put in other Beasts of a Strangers for money in that Common: Otherwise it is, in Chase or Forrest, where the Lord hath Deer, Fitzh. 189. B.

He that hath Common, ought to use that with his own Beasts, or with Beasts which dung his Land, or with Beasts allowed for their Milk, and cannot take in any, 22 Book of Assises, 82.

He which hath Common by specialty, cannot take in Beasts, but he that hath Common for Kine for their Milk, or for Beasts to manure his Land, for Sheep allowed to dung his Land, for he hath right in them for the time, 45 Ed. 3. fol. 26.

A Way appendant to a House shall not be made ingress, but Common Appurtenant and Advowson may, 5 H. 7. fol. 7.

Where the King grants Common to an Abbot and his Successors without number, out of a Mannor, and after he grants the Mannor to another, and after the Abby is dissolved, it seems for that, that it is Common without number, the King shall not have it; but if it were Common certain, the King shall have it, 27 H. 8. fol. 20.

Common appendant shall be used with his proper Beasts, and not with his other Beasts, and the Defendant was admitted to prescribe the Common appendant, 6 H. 7. fol. 14.

He which hath Common appendant, cannot use that, but with his own proper Beast or Beasts, which dung his Land; but he which hath Common for twenty Beasts by Grants, or with Beasts without number, he may use that Common with other Beasts, 11 H. 6. fol. 22. Fitzh. 108. B. the same.

A man need not prescribe in Common appendant, but it sufficeth to say, That he is seised of three Acres in D. and he hath Common appendant, &c. 4 H. 6. fol. 13.

He which justifies for Common appendant, need not prescribe in that also, 22 H.6. fol.10.

Common appendant cannot be but by continuance of time out of memory, &c. 5 Book of Ass.2.

Courts.

In what place a Court-Baron shall be held.

Court-Baron, by *Bryan*, shall be held in a place certain; but I have heard, that it may be kept in any place within the Mannor, that the Tenants have notice to make their Suit, and it is good, 8 H.7. f.4. A. And so it is, 24 Ed.3. that it need not be in a place certain; and by *Glanvil*, fol.19 It ought to be held in a place within the Mannor, and not out of the Fee.

Which is Court-Baron, and which is Court of Record.

Court of Ancient Demesne, is no Court of Record, but it is a Court-Baron, 9 Ed.4. fol.43. & 3 H.4. fol.26. the same.

Where the Entry is (*Ad Mignam Curiam*) this is a Court-Baron, as it is aforesaid, 10 Ed.4. f.17.

Where Suitors are Judges, and where false Judgment lies, and not Error, as in Court of a Mannor, Hundred, and County, these are Court-Barons, 6 Ed. 4. fol. 3. B.

Court by Commission before the Justices of Peace, that is to say, their Court of Sessions, &c. are Courts of Record, 9 H.6. fol.3.

If a man be arrested in the Cinque-Ports, he shall have a (*Homine replegiando*) if according to the Law and custom of the Ports he be repleveable, *Fitzh.* f.67. A.

Great complaint was against the Officers of the Castle of *Dover*, for holding Plea above forty shillings, where they have but a Court-Baron, and for arresting men by their bodies by their Warrant and (*Capias*); but it seems they have a Charter now, for it is used there to arrest, 5 Ed.4. fol.127.

Trespasse

Trespasse of Imprisonment, the Defendant saith, That there is a Court by prescription within the Tower, and doth prescribe to have (*Capias*) and not that it is there (*Capias*) without prescription, and justifie that by (*Capias*) &c. and so this appears to be Courts of Record, 4 Ed. 4. fol. 6.

Error lies, where false Judgment is given in any Court of Record, as in the Common Bench, or *London*, or other City where they have power to hold Pleas by Charter, or by prescription of every sum in Debt or Trespasse, of the sum of forty shillings, and more, *Fitzh.* fol. 20.

If false Judgment be given in Court of Ancient Demesne, the Tenant or Demandant shall have false Judgment; which proves; that it is Court-Baron, *Fitzh.* f. 11.

Court of Pypowders is a Court of Record, *Fitzh.* fol. 18. H.

Where the Courts hold Plea by Prescription above forty shillings, they are Courts of Record, 6 Ed. 4. f. 3.

Marshalsey is a Court of Record; for if they erre, there lies a Writ of Error, 10 H. 6. f. 13.

Where they have consuance of every sum, as in *London* and in other Cities and Boroughs, are Courts of Record, 2 H. 4. f. 3. 34 H. 6. f. 52. the same, and 45 Ed. 3. f. 1.

Error lies where false Judgment is given in any Court of Record, as in the Common Bench, or in *London*, or other City, or in other place, where they have power to hold Plea by Charter or Prescription of every sum of forty shillings and over; these are Courts of Record, *Fitzh.* fol. 20. D.

Leets and Turns of the Sheriff are Courts of Record, for that they are for the *Common-wealth*, *Fitzh.* fol. 82. 10 H. 6. f. 7. It is said, That the Leet is a Court of Record, and for that he cannot wage his Law in Debt brought upon Amerciament in Leet.

The *Kings Bench*, *Chancery*, *Common-Bench*, and *Exchequer*, are Courts of Record, for that, that no Judge may sit as Judge there without Letters Patents; *Doffor and Student*, fol. 11.

Ancient Demesne.

Infomuch, that a Court of Ancient Demesne is a Court-Baron, let us see, In what Action brought at the Common-Law, Ancient Demesne is a good Plea; and in what not: and what Action may be sued in Ancient Demesne; and what not.

Ancient Demesne is no Plea in an Action upon the Statute, R.2. 2 H.7. fol. 17.

It is no Plea in Trespass, but in Replegiare and Writ of Ward, 46 Ed.3. f.1.

It is no plea in Trespasse, 47 Ed.3. f. 22.

Ancient Demesne is a good plea in Replegiare, and not in Trespasse, 40 Ed.3. f.4. 46 Ed.3.

Plaint of *Fresh force* may be sued in Ancient Demesne, without a Writ of *Right Close*, as it seems; but another plaint of Land cannot be sued there without a Writ of *Right-Close*, 26 H.8. h.5.

Re-disseisin, and *Post-disseisin* cannot be sued in Ancient Demesne, for the Sheriff and Coroners cannot enquire there; but said, That Waste may be sued there by a *Right Close*, 32 H.6. fol.29.

If a man bring Waste at the Common Law, it is said, That Ancient Demesne is a good Plea, 7 H.6. f.37. and 8 H.6. f.83. the Opinion of all the Justices, was, That it is a good plea in waste, for that, that by this recovery, Judgment is to recover the place wasted, and by this the Land shall be Frank-Fee, 1 H. 4 fol.5. The Lord in Ancient Demesne cannot hold Plea in *Re disseisin* and Waste, by *Hull*; for that, that the Sheriff is Judge, and not the Lord.

Warranty of Charters may be sued at the Common-Law, and Ancient Demesne is no Plea; for Warranty is by Deed out of the Land, *Fitzh.* 135.

Juris utrum, at the Common-Law, Ancient Demesne is no Plea, for he cannot have a (*Right Close*) for that, that *Frank-Almoigne* cannot be held there, but the tenure there is *Socage*, *Abridg. Ass.* f.16. 6 Ed.3. f.20. the same, *Statlam.*

Detinue

Derivue of *Charters* of the Common-Law to plead Ancient Demefne, is no Plea, 13 Ed.3. f.67. *Statham.*

Fitzh. 136. In a Writ of *Demefne*, Ancient Demefne is a good Plea.

In (*Quid juris clamat*) brought at the Common-Law, to plead Ancient Demefne, is a good Plea, 20 Ed. 3. *Statham*, fol.20.

In an Action upon the Statute of R.2. brought at the Common-Law to plead Ancient Demefne, is no Plea; but in Account or Replegiare, it is a good Plea, 21 Ed. 4. fol. 3.

Where Damages are recovered in Ancient Demefne, and Debt is brought in the *Common-Bench* upon the same Damages, it is no Plea for the Defendant to plead Ancient Demefne, 39 H.6. fol.3.

Ancient Demefne is a Court-Baron, and the Suitors are Judges.

DEbt was brought in Common Bench for Damages recovered in Ancient Demefne, the Defendant pleads no such Record, and is no Plea, for it is a Court-Baron; but no such recovery is good, 9 Ed.4. fol. 44.B. 30 Book.

Suitors are Judges in Ancient Demefne, 34 H.6.fol. 38. *Nat. Brev.* fol.12. the same.

Suitors are Judges in Ancient Demefne, and not the Bayliff, 12 H.4. fol.17.

Pleas shall not be removed out of Ancient Demefne, unless for false Judgment, 13 H.4. f.16. *Fitzh.* f.10. A. the same; and that proves that this is a Court-Baron.

Suitors are Judges in Ancient Demefne, for that it shall not be removed, for that the Bayliffs maintain, 3 H.4.fol. 16. See 6 H.4. f.2.

Upon (*Pone*) to remove Plea out of Ancient Demefne, the Sheriff returns, That the Suitors will not send the Record, by which issued a Distress against the Suitors, 18 Ed.3. *Statham.*

False Judgment was brought in the Common Bench; upon a Judgment given in Ancient Demefne, in a Writ of *Right-Close*; and though Judgment was given in that
in

in the Common Bench, yet the Land shall be Ancient Demesne as it was before.

By *Kiiver*, Fine levied in Ancient Demesne, is nothing worth, for it is no Court of Record; but Common Recoveries are used there to cut off an Intail, 50 *Aff.* 9. No Land may be pleaded there by *Right-Close*, and not elsewhere.

*How Land in Ancient Demesne is made Frank-Fee,
for a time; and how, for ever.*

DURING the time that Lands in Ancient Demesne is in the hands of the King, it is Frank-Fee; but if the King grant that over to hold of the Mannor again, it is Ancient Demesne again, 21 Book of *Aff.* 13.

If Recovery or Fine be in the Common Bench of Land in Ancient Demesne, the Land is Frank-Fee, till it be defeated by the Lord by Writ of Deceit; and when that is defeat, it is void to binde the parties, 8 *Ed.* 4. fol. 6. See 3 *H.* 4. f. 6. accordingly.

If the Tenant in Ancient Demesne enfeoffs his Lord of the Mannor, being common persons, and not King, the Lordship is Frank-Fee for ever, 9 *H.* 6. f. 24. B. 3 *H.* 4. fol. 16. the same.

Where the King gives Land of Ancient Demesne, to hold in Frank-Almoigne, that is Frank-Fee, 6 *H.* 4. fol. 2.

Where a Fine is in Common-Bench, of Land in Ancient Demesne, it is Frank-Fee; so that after, if a Recovery of that be in Ancient Demesne, it is void, (and before not a Judge) 7 *H.* 4. fol. 3. B. 7 *H.* 4. fol. 29. the same.

If the King was once seised of Land in Ancient Demesne, and lets that for life, it is Frank-Fee for the time, 11 *H.* 4. fol. 84.

Where Land in Ancient Demesne is forfeit to the King by attainder, and the King grants that over to another and his heirs, now they are Frank-Fee for ever, 13 *H.* 4. fol. 7.

Where a Fine is levied of Land in Ancient Demesne in the Common-Bench, the Lord may defeat that by a Writ of

of Deccit; and yet if he to whom the Fine was, &c. hath a release, with confirmation of the party, made after the Fine, his Estate is good, notwithstanding that the Fine be defeated, *Fitzh.* 98. A.

The Lessor by his confirmation to his Tenant, may make the Land in Ancient Demesne Frank-Fee; but if he confirm to hold by meaner services, it is no Frank-Fee, 30 Ed.3. fol.16.

Where Land in Ancient Demesne escheats to the Lord, for that, that the Tenant dies without Heir general or special, are Frank-Fee for ever, for he holds them now of the Lord Paramount, 18 Ed.3. fol.19.

If the Tenant in Ancient Demesne answer the Action in *Præcipe*, in the Common-Bench, yet it is no Frank-Fee before Judgment given, 2 Ed.3. f.26.

The Lord by his confirmation may alter the Tenure, but not the estate of the Land, where he confirms to hold at the Common-Law, 49 Ed.3. fol.7.

Fine at the Common-Law, Recovery, or where he is in by the Kings Charter, or by Feoffment of the Lord, these prove the Land Frank-Fee, and not Ancient Demesne, *Fitzh.* fol.13. C.

If the King be seised of Land in Ancient Demesne, this is Frank-Fee; but if the King demise it to another, the Land is Ancient Demesne again, 17 Ed.3. fol.52.

A man recovers in Ancient Demesne Lands which were at the Common Law against a man by Verdict of a Jury; and he against whom the recovery was, brought an Assise upon that, and awarded. That he should recover Seisin, 30 Ed. 1. tit. Ass. 379.

Note the tenure and triall of Ancient Demesne, and who shall plead Ancient Demesne.

Lands which are Ancient Demesne are Socage, *Fitzh.* fol. 11.

Tenants in Ancient Demesne, are those which hold of the Mannors which were in the hands of Saint Edward the Confessor, at the time that the Book of Doomesday was made; but the Lands written in that Book, to be in other mens hands, are not ancient Demesne, *Fitzh.* 16. E.

All the Lands which were in the Seisin of Saint Edward the Confessor, when the Book of Doomesday was made, are called Ancient Demesne, and the Lands in other hands, &c. Frank-Fee; Natura Brevium, fol. 14.

If the Land be Ancient Demesne or not, shall be tried by the Book of Doomesday, 49 Ed. 3, fol. 22. In Monstraverunt.

Affise, The Tenant pleads, That the Land was ancient Demesne, and it was tryed by Affise in the Book of Notting. and also North. 8 Ed. 2. Statham, f. 20.

Trial of Ancient Demesne is by the Book of Doomesday, and by that it was certified, that London was not Ancient Demesne, 7 H. 6. f. 34.

In Affise of Mortdancester, Ancient Demesne was tryed by the County, 8 Book of Ass. 35. 9 Book Ass. 9. the same.

In Affise, the Tenant saith, That it was partell of the Mannor of B. which is Ancient Demesne; and the other saith, That it is not partell, and upon this at Issue, and that was tryed by Affise, 12 Book of Assises, 18. 22 Book of Assises, 45. the same.

Affise, None shall plead Ancient Demesne but he which is Tenant, and not the Diffessor, 21 Book of Ass. 2. 41 Ed. 3. tit. 22. the same.

If Land be in the Book of Doomesday, written under the Title, Land of the Bishop, and not, Land of the King; yet though it be in the Book of Doomesday, it is no Ancient Demesne, 40 Ed. 3. fol. 45.

Form of Pleadings, that the Land is Ancient Demesne, and how he shall sue for Ancient Demesne, and for Copyhold in Ancient Demesne.

BY Priset, He which pleads Ancient Demesne, shall say, That the Land is held of the Mannor of D, which is Ancient Demesne, and pleadable by a petty Writ of Right Close from time out of minde, and demand Judgment if the Court will acknowledg, 36 H. 6. fol. 18.

3 H. 6. fol. 48. But see by Thirn, and granted, That Frank-Fee may be held of a Mannor of Ancient Demesne, 11 H. 4. fol. 85,

Præcipe, The Tenant saith, That the Land was parcell of the Mannor of D, which is Ancient Demesne and pleadable by petty Writ of *Right Close* from time out of mind, and demand Judgment if the Court will acknowledg; and it is no plea for the Demandant to say to that, That it is Frank-Fee; for that, that it doth not gainsay, but that the Mannor is Ancient Demesne, and that this is parcell; but he ought to plead specialty, how it is become Frank-Fee, 41 Ed. 3. fol. 22. 12 Book of Ass. 16. 22 Book of Ass. 45.

Right Close, lieth alwayes between *Plow-holders*, and no *Plow-holder* may implead another *Plow-holder* of Lands in Ancient Demesne, unless by this Writ, and shall make in this his protestation to sue in nature of what Writ he will, as his case is. *Nat. Breuium*, f. 11.

They call Tenants in Ancient Demesne, *Sokemains*. *Britton*, f. 105.

Copyholder of base Tenure shall not have a *Right-Close*, but ought to sue by Bill in the Lords Court, but Copyholder in Ancient Demesne of free-tenure shall have that, *Fitzh.* fol. 11.

The King shall have year, day, and waste of Lands in Ancient Demesne; if it be so, that the Tenant have sold them against his Lords will, and yet not the Lands past by surrender, *Stams.* fol. 50. Note, This is where the Copyholders in Ancient Demesne have used time out of mind to sue for them by petty writ of *Right Close*; and so is, 14 H. 4. f. 1. by Hank, and 14 H. 4. fol. 34. And see 3 Ed. 3. Br. tit. *Copyhold*, 22. And in these Surrenders of Lands in Ancient Demesne of Frank-tenure, it is not used to say, (to hold at the will of the Lord) in these Copies, but (to hold according to the Custome of the Mannor) by the Services before due, and is not said there, (at the will of the Lord.)

Ancient Demesne is *Socage Tenure*, for they are called *Sokemains*, *Fitzh.* 14. C.

By what Writ Execution shall be in Ancient Demesne, and by what not; and shall be free of Toll, &c.

EXecution of Writs in Ancient Demesne cannot be, for that Execution is given by *Westm. 2. chap. 18.* and that the Statute is, if they be ejected of those Tenements, they have to recover by a Writ of new Disseisin, 22 Book of Ass. 45.

Upon a Statute-Merchant, Execution was awarded of Lands in Ancient Demesne, *Br. tit. 37.*

Debt against Heir, if he hath Lands in Ancient Demesne, they shall be charged as Assets, 7 H. 4. f. 15.

Those Tenements of Ancient Demesne are quit of Toll, and passages for Goods sold and bought in Fairs and Markets, and so be quit of Tax and Tallage of Parliament; unless they be taxed by the Parliament, and to be quit of expences of Knights of Parliament, and shall not be put upon Juries and Enquest, out of Ancient Demesne for Lands of Ancient Demesne, *Fitzh. 14.*

Court of Pypowders.

Let us see the nature and authority of Court of Pypowders.

Court of Pypowders, is a Court of Record, and the Steward is Judge, for that, that there are no Suitors there, and for that Error lieth there upon erroneous Judgment given, and not a Writ of false Judgment, 6 Ed. 4. fol. 3. 7 Ed. 4. f. 23. that error lieth there.

It was held, That a Court of Pypowders may be by custome in a City without Fair or Market, and therefore where it was assigned for Error upon a Record given in a Court of Pypowders, according to the custome of the City held, &c. And though it be not [in full Market or Fair] it was adjudged no Errour, 13 Ed. 4. f. 8.

Trespass of goods taken, the Defendant justifies as Bayliff of the Town of *Rippon*, by vertue of a command of execution of a Judgment given against the Plaintiff in debt,

in Court of the said Fair at *Rippon*, and for that, that the Plaintiff did not make agreement for the debt, recovered against him within ten dayes, after Judgment given, he makes price of the Goods by Merchants of the Town of *Rippon*, and for that makes agreement with the party, and this justification was good, 20 Book of Assise, 96.

It was enacted, That no Steward shall hold Plea in this Court, unless the Plaintiff, or his Attorney, makes Oath, that the fact or contract was made within the Fair; and if it were the contrary, he should forfeit 100 s. 17 Ed. 5. chap. 2. tit. Fairs the fourth.

In Court of Pypowders, the Plaintiff or his Attorney shall be examined by Oath, If the matter rose within the Fair; and the Defendant also may plead, that this arose in a forraign place, 1 R. 3. chap. 6.

Debt in the Common Bench against *M. wd.* and counts that he had recovered ten Marks against the said *M. wd.* in Court of Pypowders at *Everwick*, and the Plaintiff by *Certiorare* removes [the Tenor of the Record] in the Chancery, and from thence by *Mittimus* into the Common Bench to have Execution, and attachment was made upon the Original, at the ninth hour, and he appears and pleaded, and a *Venire facias* went out, returnable at the third hour after the ninth; and so in Court of Pypowders, the process is from hour to hour, 7 H. 6. fol. 19.

The Book of Entries, fol. 167. see there the form of the Count, and *Precipe* of summoning in this Court, and the Process of *Capias*, and proceeding in debt in this Court, and debt against a Jaylor for escape, in title, *Debt*.

The Book of Entries, fol. 18. see *Scire facias* to have Execution upon Judgment given in a Court of Pypowders, in an Action of Account brought there, and removed into the Common Bench to have Execution of that Judgment.

And it seems briefly, that nothing shall be sued here, unless the Contract or Deed were made within the Precinct of the Fair, or Market, as it appears above, and for that Informations of penal Statutes ought not to be sued in this Court, of things and offences made out of Fairs and

and Markets, as insufficient tanned Leather, carried to be sold in Fairs against the Statutes; also this Court is ordained only for hasty redress of things there during the Fair.

Court of Marshalsey.

FIRST, In the Book called, *The Diversity of Courts*, fol. 110. It is said, That the Court called the Marshalsey, is an Ancient Court of Record, and made to have good Government and Order within the Kings House, for preservation of the King and his servants, and to this Court are certain bounds limited, by 13 R. 2. chap. 3. that in all places where the King in his own person shall come and make stay there, within the Verge limited to his Graces Court, that it shall not passe the space of twelve miles to be accounted from his Lodgings. Fitzh. 141. B.

And in diversity of Courts it is said, That this Court hath power to inquire of Treason, Murder, and Felony, and to take Appeales of them, and also of Mayms, if they be made within the Verge, and between persons of the Kings house.

And said there also, That if one of the house of the King sue another which is not of the house, he shall plead to the Jurisdiction of the Court, and if they will not this Exception allow, he shall have a Writ of Errour, and that shall be reversed in the Kings-Bench, Fitzh. 242. A. Seek in Trespass.

And the Judges in this Court, are the Steward, and Marshall of the Kings house; for in these is the order of the Kings house.

Note, That by the Statute *Articuli super Chartas*, chap. 3. that the Steward and the Marshall shall hold no plea of Freehold, nor of Debt, Covenant, nor of any Bargain made between any of the Kings people, but only of trespasss made within the Kings house, or other trespassse made within the Verge, and of Contracts and Covenants, which one of the Kings house made with another in the same house, and not otherwise. And they shall plead no plea of Trespass, except the parties were arrested by them before the King departed the Verge where the Trespassse was committed, and they shall plead

plead speedily from day to day, so that it may be pleaded and determined, before the King depart out of the limits of the same where the Trespass was done; and if they cannot be determined within the limits of the Verge, the Pleas there shall cease, and be determined at the Common Law; and the Steward shall not take Conscience of Debt, nor of other things, but of such persons only which are of the Kings House, nor shall hold any other Plea by Obligation; and if they do any thing against this Ordinance, let their doing be h. ld for nothing: See Fitzh. 241. B. D.

10 H. 6. fol. 13. Action was brought upon this Statute, for that the Defendant impleads the Plaintiff in the Marshalsey for Trespas, whereof one nor the other was of the Kings House; and there it is granted by the Court, that of Trespas within the Verge, one or other shall be of the House, as well as of action there upon other Contract: Seek, for it seems otherwise by the words of the Statute, and it is used now the contrary; diversity of Courts agrees, as above, see the title of 38 E. 1. c. 1.

7 H. 6. fol. 33. A Writ was sued upon the Statute (*Articuli Super Chartas*,) Ed. 1. chap. 3. That none shall be impleaded in the Marshalsey, if one party were not of the Kings house, there did averr the Defendant vext him, &c. the other saith, No such Record.

Brook, tit. Action upon the Statute 38. That the Marshalsey shall not hold Plea of Contracts, unless as well the Plaintiff as the Defendant are of the Kings House; for if it be otherwise, the Defendant may plead to the Jurisdiction; and if the Plaintiff remove out of the Kings-service, hanging the Plea, the Defendant may plead that, and abate the Jurisdiction and the Plea; contrary, if the Defendant remove out of the Kings-service; and there it was held, though the Trespas made within the Verge by there between any, though they be not of the Kings House; Contrary of Debt and Covenant: and therefore seek of Action upon the Case there between Strangers upon Assumpsit; for it seems that it is a Contract.

6 R. 2. tit. 49 Br. Action upon the Statute, Debt upon Recovery if Damages before the Marshall, in an Action of Covenant before the Marshall; that is a good Plea to the Jurisdiction, that none of the parties was of the Kings House at the time, &c. For the Statute of *Articuli Super Chartas*, chap.

chap. 3. will, as above; and therefore, it is *Coram non jūdice*, it it be otherwise.

19 Ed. 4. fol. 9. By Littleton, and not denyed, where one is out-lawed in the Common-Bench without Original, it is not void, but Error; but Judgment given in the Marshalsey between parties which are not of the Kings House, is void; for they have no power to hold the Plea; and if execution of that Judgment be sued, the other shall have Trespass upon it.

Then for that, that the Statute of Articuli super Chartas aforesaid, limits what actions shall be sued in the Marshalsey; it seems, that information upon penal Statutes shall not be sued there; for the Attorney of the Queen, nor Informer shall not inform there, and this is no suit between the parties that the Statute of Artic. provides, and they are no such Actions: And for that Mr. Pool, Steward there, did well to reject the information of penall Statutes aforesaid out of the Court; and in this Court, and the Court of Pypowders, the suit is, J. S. complains against J. D, and your information is; Memorandum, that such a day J. S. came here into the Court, &c. and gave the Court to understand, that, &c. And there is another form; and where there are divers Statutes which give liberty to sue for penalties in any Court of Record of the King by expresse words, yet it was never seen in any Suit by information, for such Penalties in the Chancery, Court of Wards, Court of Requests; for Suits there are by English Bill, and matters of Conscience; and Leet is a Court of Record of the King, and yet no information shall be there, and so it seems in a Court of Pypowders; and they do not use in these Courts English, nor in the Leet where the matters are by presentment of the Jury to be informed there; nor in Court of Pypowders, unless the Lord hath the penalties by the Kings Grant; for in these Courts the Attendance of the Kings Attorney is not requisite, and who shall account and pay the King his half in these Courts; and for that it is hard to sue information there; See 44 Ed. 3. tit. 1. *Action popular, B.*

And though that some Statutes by expresse words are, That it is lawful to sue for these penalties of Statutes in any Court of the Kings of Record; this is to be intended in such Courts which have been used, as in the Common-Bench, the

the Kings Bench, the Exchequer; and for that the Statute of *Acton Burnell*, fol. 236. is, That where an Extent upon a Statute-Merchant is found too high, it is forthwith that the Extenders shall answer, for that it is to be intended at the day of Extent, and not forthwith, 2 H. 4. fol. 19. So this is taken by intendment, as above, 8 H. 4. fol. 11. Also the Statute of *Donis conditionabilibus*, the Letter is, That fine by Tenant in Tail (in right is nothing) for that is to be taken, as wise men have taken it; that is to say, That the Issue in Tail be put to a Formedon, and cannot enter, 11 H. 6. fol. 9.

Also the Statute of the Year 8 H. 6. chap. 10. is, That upon Indictment, shall go two Capias and Exigent; and that the second Capias shall be with Proclamation at a place which hath Addition; if he be indicted in another County then where he dwells; and if it be not so, the Outlawry shall be void; this is taken by this Book of 11 H. 6. fol. 19. It shall be avoided by Writ of Error, and not void, according to the express words of the Statute.

Also it is not used where Fairs or Markets are granted, to grant to the Lords of that, forfeiture of penal Statutes, that, that is not granted to the Steward and Marshal; and for these causes, Informations shall not be sued there.

Customs.

IT is said, That the fifth ground of the Law is, particular Customs; and for that, Custom is inquirable by the third Article, *Doctor and Student*, fol. 20.

And for that it is expedient to say something of Customs; and first to write such Customs to you, which I have seen allowed between Copy-holders within Mannors where I have been at Courts.

Heir.

First, Custom of some Mannor is, that the youngest Son or Daughter of the first Wife, being married a Virgin, ought to inherit.

Custom

Custom of some Mannor is, that the Woman being *Dower*, espoused a Virgin, shall have all the *Copy-hold*, whereof the Husband died seised for her *Frank-bench*; but the Husband may alien all, or part, without the Wife, and then she cannot claim *Dower*.

Custom in some Mannor is, among *Copy-holders*, that the youngest Son shall inherit, as in *Bourough-English*; and if he have no Son, his younger Brother, as at *Edmon-* *Heir*
ton.

Custom in some Mannor is, that all the Sons, and all the *Heir*
Brothers shall inherit together, as in *Gavel-kind*, at *Isling-*
ton.

Custom of some Mannor is, that if the Tenant dies seised of five Acres, or less, then the youngest Son ought to inherit; but if above, then all the Sons, as in *Gavel-* *Heir*
kind, ought to inherit.

Custom of some Mannor is, If a *Copy-holder* *Clivenor*
surrender his Land to the use of a stranger; that before the stranger be admitted, Proclamation shall be made in the Court thereof; and if the next of the blood will come in, or *Clivenor* Land mark, those next adjoyning to the bargain from the East of the Sun, and will pay so much for the Land (Surrendred, as he which made the Bargain ought, together with all his Costs, which had the Land so Surrendred; and then the Bargainee shall make Oath in Court what he paid, and that shall be paid him forthwith in Court, and then the next in Blood, or *Clivenor*, which pay that, shall be admitted, and shall have the Land.

Custom of some Mannor is, where the Surrender is of *Copy hold* made to him and his, that is, an Estate of an Inheritance in Fee by the Custom, though it be not to him and his Heirs; and in some Mannor it is to him and his in Villainage, and it is a good Estate of Inheritance by the Custom.

Custom of some Mannor is, That Surrender may be made into the hands of the Bayliff, in the presence of two Tenants witnessing that; and in some Mannor, in the hands of two Tenants, to the use of him to whom, &c. And in some Mannor, in the hands of one Tenant, to the use of him which should have it; and all these are good Customs, and allowed.

Custom

Dower.

Custom of some Mannor is, That the wife shall have no Dower, nor the Husband shall not be Tenant by the curtesy : And the Custom in some Mannor, That she shall have the third part of the Rent, and not any Land for her Dower, as at Bush.

Surrender.

Custom in some Mannor is, That Surrender may be made into the hands of a Tenant, in the presence of other persons, to the uses, &c. and is good.

Waste.

Tenant at Will by the Common Law, may cut Trees to repair his Houses, and also may take House-boot, Hedge-boot, and Plough-boot, and all this, Tenant by Copy may do : And by the Custom in divers Mannors, Copy-holder may cut his Trees and wood, and sell it at his pleasure ; and also suffer the Houses to decay ; and yet it is not forfeiture, as it is at Islington.

Lease.

Custom of some Mannor is, That Copy-holder may let that by Indenture for three years, without license of the Lord ; and in some for nine years, and in some Mannor for more ; and in some Mannor, he may lett from three years to three years, to the term of one and twenty years, and is no forfeiture.

Herriot.

Custom of some Mannor is, That where the Copy-holder is inheritable, that the Heir shall choose the best Beast, and the Bayliff of the Lord shall seise two of the next best Beasts ; and for a Cottage, two shillings in silver for Herriot shall be paid, and no Beast.

Fine.

Custom of some Mannor is, to pay six shillings eight pence for a Herriot, and no Beast.

Fard.

Custom of some Mannor is, that a Copy-holder pay but one penny for a Fine, though there be a hundred Acres, or more ; and in some Mannor, six shillings eight pence for every dwelling House ; and also for every Acre, six shillings eight pence ; and for every Cottage, six shillings eight pence ; and also six shillings eight pence for every Humpfel, that is, an ancient House or Cottage decayed, six shillings eight pence : and in every Mannor the Fine is uncertain, but yet the Lord there shall not take more for his Fine then hath heretofore been taken for a Fine ; and if he do otherwise, the remedy for the Copy-holder is in the Chancery against his Lord.

Custom of some Mannor is, That if any Copy-holder die, his Heir within age, the Custom in most Mannors is, that

that the Custody shall be committed by the Lord to the next of Blood, to whom the Land cannot descend : And in some Mannors, the Bayliff of the Lord shall have the Custody, and render the Heir an account at fourteen years of the profits ; and by the Custom in some Mannors, at fourteen years the Heir may choose to him a Guardian.

Custom in some Mannor is, to have certain dayes of labour in Harveſt, for a day or two dayes ; and in some Mannor he shall pay four pence for every day labour of that.

Workmen

Custom of some Mannor is, that he shall pay, for a Relief upon a diſcent, but half that which is due by Common Law ; as if he hold by six pence, he shall pay but three pence for relief, but yet he ought to pay that relief by the Custom : Also, if he come in by purchase, he ought to pay in the like manner half his Rent, as aforesaid ; that is to say, three pence, where his Rent was six pence.

Relief.

Custom of some Mannor is, to pay but one penny for Relief, and not more, nor less, though his Rent be ten shillings.

Custom in some Mannor is, That if a man marry a Maid, and dye seised of Copy hold, his wife shall have all the Land during her life, for her Dower : but if he marry a Widow, and dye seised, she shall have no Dower.

Custom of some Mannor is, That if one were no Copyholder of that Mannor before, and purchase Lands, at first the Fine is arbitrable, and granted at the will of the Lord ; but he nor his heirs after shall pay no Fine, but shall be admitted free, without paying Fine for all the Lands which he after purchaseth within the Mannor.

If a man lett to thre for life, to have successively ; yet this is a Joynt-Estate, and (successively) is void ; but by Custom of Copy-hold successive holds places and one shall have it after the other, 30 H. 8. tit. Leases 54.

And note, That you do not say, (as many use to say,) That there is such a Custom, when they see the Law to be contrary to their intent, as divers Stewards do, who for favour that they bear to one party, will ayd him by Custom, when there is no such Custom to help him.

And

And I have heard a Steward say, By the Custome of a Mannor, a Wife is dowable; and by the Custome that shall be assigned by the Homagers, without plaint, in nature of dower against the Tenant of the Land, and without answer of the Tenant, and without any Proceſs made against him, contrary to Fortescue, fol. 85. which is, That none is to be sued, but by the Law; and the Case was this, That the Husband, before that he took a Wife, made an Estate for life, reserving Rent, and after he took a Wife, and dyed; so that by the Law the Wife is not dowable of the Land; much more, she shall not be assigned there by the Homagers: But saith the Steward in such a Case, She is by the Custome of this Mannor Dowable in this Case; and such blind and unreasonable Customes are alledged many times amongst Copy-holders, where there is no President nor usage in this Case to be shewed.

But you ought not to allow any Custom, but that which hath been used from time to time, and from time out of mind; and there ought to be Presidents in the Court-Rolls, or good proof of that to be shewed to the Court, accordingly, otherwise it is not to be allowed for a Custom.

And for that, that you ought to note, what Custom ought to have lawful beginning, as might take lawful effect by Grants at the beginning; for if it be against common Right and Reason, it is not good; and for that you ought to regard these Grounds in Customs.

First, That it be reasonable, 2 H. 4. tit. 10. And for that custom, that no Tenant of the Mannor put in his beasts, to use his Common in Fields sowed, after the Corn is taken off, till the Lord hath first put in his Beasts, is not good; for it may be, the Lord will not put in his Beasts; and then the Tenants shall lose their profits.

Also, that it be according to common Right, 42 Ed. 3. fol. 4. Prescription of the Sheriff, that the Tenants of the place ought to give to the Sheriff for easement, for reward at the Turn of the Sheriff, half a Mark; and this is against common Right, for every gift cometh upon his liberality, and

and at the will of the Giver, and for that it is not good, and also saith, that the Sheriff cannot prescribe.

Also, that it be upon good consideration, 42 Ed. 3. fol. 4. In the Case next before, where the Sheriff prescribes, For that that there is nothing which toucheth the King, of which he is charged in account, it is not good, for there is no consideration: And as 5 H. 7. fol. 9. Prescription, That if any pasture Sheep upon his Land by day, that he may have Foldage of them in the night upon his Land; it is good, for it is with consideration.

And you ought to note, that Prescription, Custom, and Usage are as Brothers, and yet something they differ in their natures; for Prescription is, when by continuance of time out of memory, one particular person hath particular Right against another particular person.

And Custom is, where by continuance of time out of memory, one right is had concerning divers persons; and Usage is, by continuance of time, the efficient cause of them both, and Usage is the life of Prescription and Custom; for Prescription and Custom have their being by Usage of time out of mind, &c.

Custom or Prescription, that every one which breaks the Lords Pound, shall pay three pound nine pence, is not good against a stranger to the Lord; but that every tenant which breaks the Pound, shall pay three pound nine pence to the Lord, is good, for the Lord may give the Tenements of his Tenants to hold by such, &c. 11 H. 7. fol. 14. so that at the beginnings, the Lord may create the Customs aforesaid amongst Copy-holders.

Custom to prescribe to have used fold-gate in the night for pasture in the day, is good, for it is (one for another) and it is with Common Right, 5 H. 7. fol. 9.

Custom, that the Tenant of time out of mind, hath used to pay so much for the marriage of his Daughter, is good, 43 Ed. 3. and 6. But Littleton, fol. 46. contrary.

Custom or Prescription against common Right, is not good; and for that, that it hath been used in Leet, that if the petty twelve present false, and the other twelve enquire of that, and find that false, shall be amerced, is not good; the same Law for the Lord of the Leet, which hath no Land to prescribe to be Lord of the Waste, 9 H. 6. fol. 44.

Custom

Custom or Prescription of folding Sheep in the night gathered to the fold, is not good, unless it be as above for their pasture, 48 Ed. 3. fol. 13.

Custom or Prescription, that one may keep the distress, till he satisfied at his Will, is not good; for it is against Common Right, *Lit. fol. 46. § H. 7. 9.*

Custom or Prescription, that one shall have the Land to plow and sow; and when the Corn is carried, another may have that as his several, is good, time of Ed. 2. *tit. Prescription, § 5.*

Custom or Prescription, to have Toll through, which is in the High-way, is not good; for it is against Common Right: but to have toll Travers, is good, 22 Book of Assise, 58.

Custom or Prescription, to have Warren in his Signiory Lands, is good, but not of Lands which are not held of him, 3 H. 6. 13. 43 Ed. 3. 13. and see 44 Ed. 3. 13.

Custom is good, which is not against the law of reason, nor the law of God; as Customs of *Gavel kind*, and Burrough-English, *Doctor and Student*, vol. 20. B.

Custom, that every Tenant of the Mannor, ought to pay two Marks for Relief, hold they more or less, is good, 40 Ed. 3. fol. 6.

Custom, that the Tenants of the Mannor, time out of mind, have used to choose a Beadle for them to gather the Lords Rents, is good, 44 Ed. 3. fol. 13.

Custom, that none of the Town of D. shall put in their Beasts into the Field, after the Corn taken off, untill the Feast of S. Michael, is a good Custom of the Town, after 46 Ed. 3. fol. 24.

But Custom that none shall put his Beasts into the Fields, after the Corn severed and carried, before the Lord put in his Beasts, is not good; for peradventure the Lord will never put in his Beasts, 2 H. 5. 24.

Custom of the Town of Bayton, or of a Mannor, that a Wife shall have all the Land of her Husband for her Dowry, or a half, or a fourth part, is a good Custom, 2 Ed. 4. 17. and 21 Ed. 4. fol. 64. by Choke.

It is held, that Custom throughout the whole Kingdom is Common Law; and one cannot prescribe that it is a Custom throughout the whole Kingdom, but, it is a Custom in such a City or such a County, 34 H. 8. *tit. Custom*

39. 30 Ed. 3. 25. 2 H. 4. fol. 18. *Customs of County*, 21 Ed. 4. 58.

Customs of the Town which is no Burrough nor Corporation allowed there, but see 4 Ed. 3. 38. in a reasonable part, and see 21 Ed. 4. f. 53. and 54. 40 Book of Ass. 27. and 45 Ass. 40. against the Customs of the Village.

That he hath been by Prescription the Keeper of a Wood, and Customs to have of every commer a measure of work, or three pence, and of every one which hath a Gate into the Wood, a hen is a Customs allowed, 11 H. 6. 2.

Customs or Prescription to have House-boot in the Lords Wood, is good, but not to have Wood to sell, 11 H. 6. f. 11.

Customs that within the Mannor of D. the Wife shall have the whole Land of her Husband in Dower, whilest she is unmarried; and if she marry, that she shall forfeit that, is good and allowable, 21 Ass. 11.

Customs that a Woman covert may Demise and surrender her Copyhold to the use of her Husband, this Customs is not allowable; but Customs that an Infant at his Age of discretion may surrender his Copyhold, that is good; but contrary of an Infant within age of discretion to make a surrender.

21 H. 7. fol. 26. Lord to prescribe that every Tenant of his Mannor ought to impound Distress, taken within his Mannor, in his Pound, is not good, for he may impound in his own Land.

8 Ed. 4. f. 19. Those which are Fishers in the Sea, may prescribe to go upon the Land adjoining to the Sea to Fish; for that it is for the Commonwealth, but to dig to fix the stakes to dry their Nets, is against common right, and is not good.

21 Ed. 4. tit. 50. Customs to turn his Plough upon the Head-land of another, is a good Customs.

40 Edw. 3. fol. 9. Customs to pay to the Lord five Marks for Relief, and not more, hold he more or less, is good.

44 Edw. 3. fol. 13. Customs that the Tenants ought to choole a Beadle amongst them, to gather the Lords Rents, is good.

2 Mar. tit. *Prescription*, B 100. Customs may be alledged where there is no person that may prescribe, as
P Inhabitants

Inhabitants cannot prescribe, but alledg Custome there, to have Common in D. for one goes with the person, and another with the place; and Prescription with the person, by 21 H. 7. f. 13. that is, That all the Tenants have used to pay after their death a Harriot, is not good; but that the Lord hath used to have after their death, &c. he may prescribe.

18 H. 8. fol. 2. Inhabitants, by *Fitzherbert*, cannot prescribe to have common; but the Lord may prescribe for him and his Tenants, &c. of time out of mind, &c.

7 Ed. 4. fol. 24. It seems that Inhabitants cannot prescribe to Intercommon because of Neighbourhood; but Inhabitants may prescribe to have easement; that is to say, that they have a Way, or other thing of easement, but not to take profit.

12 Ed. 4. fol. 2. It seems by *Cotesby*, that the Inhabitants of D. may prescribe, that they have used to pay but three pence for Toll.

18 Ed. 4. fol. 3. It is said, That the Inhabitants of D. cannot prescribe that they have used to have Common in another Freehold, but that they have used to have a Way, 15 Ed. 6. 28. the same.

40 Ed. 4. fol. 18. Schollers of *Oxford*, and Justices of Assise may prescribe to have principal or Housses, notwithstanding they are not corporate, for that they are for the Commonwealth.

26 H. 8. fol. 6. Parishioners may prescribe to choose two Church-Wardens of a Church, every year, and good.

11 Ed. 4. fol. 2. Serjeants at the Law may prescribe that they have used to be impleaded by Original, and not by Bill, and so prescribe in usage.

20 Ed. 4. fol. ult. Officer which hath his Office at Will, may prescribe, as Chief Justice of the Bench, and other, which have used to give Offices.

21 Ed. 4. fol. 18. The Lord Chancellor of England, which is at will may prescribe in usage; that is, to present to all Benefices under forty Marks, which are in the Kings Right; but he ought to prescribe in his Office; that is, that all Chancellors, &c. and so may Justices prescribe, 20 H. 6. fol. 9. the same.

12 H. 7. fol. 14. Officers may prescribe that they and all the Officers, whose Estate, &c. have used, and so forth.

Note how any shall have a Rent or a thing which cannot be granted without Deed by Prescription.

13 Book of Ass. 4. Rent was recovered by Verdict in Assise, where the Assise found, that he and those whose Estate he hath, were seised time out of mind; and so note, Rent recovered by Title of Prescription, and the party shew a Deed by which he purchased the Rent, but not a Deed of the beginning of it.

Littleton, fol. 34. saith, Such things which cannot be granted nor aliened without Deed or Fine, a man which will have things by Prescription, he cannot otherwise Prescribe but in him and his Ancestors whose Heir he is, and not in him, and those whose Estate he hath, for that, that he cannot have his Estate without Deed or other writing, which he ought to shew.

12 H. 7. f. 14. One avows for that, that he and all those whose Estate he hath in the Hundred, have view of Frankpledge, and that by reason of ten Acres within that, he ought to make suit at the view, &c.

22 Book of Ass. 53: Ass. One makes title to rent, that he and his Ancestors, Lords of the Mannor of D. and those whose Estate he hath, of time out of mind, have used the Rent, and this is good, without shewing a Deed of purchase of that, being appurtenant to the Mannor.

11 H. 6. f. 14. To say that he is seised of a Messuage, and twenty Acres, and to prescribe that he and all those, &c. have used House- boot, and Wood to sell, it is not good, to prescribe to sell it.

Customs shall be taken strictly.

Customs of London is, That a Citizen and a Free-man may Demise in Mortmain, but a Citizen which is a Forrainger, cannot Devise in Mortmain, for it shall be taken strictly, 5 H. 7. f. 10.

5 H. 7. fol. 41. Customs: that an Infant of the Age of fifteen years may make a Feoffment, yet a Lease and Release, which

which amounts to so much, is not good.

22 Ed. 4. tit. 17. Infant by Custome of Gavelkind at the Age of fifteen may make a Feoffment, yet he cannot make a Will upon the same Feoffment, for Custome shall be taken strictly.

Perkins, f. 83. Where the Custome is, that the Wife shall have half the Lands of her Husband for her Dower, yet she shall not have the half of a Fair or a Ballywick, for they are not Land, and shall be taken strictly.

38 Ass. 18. By the Custome of London, a Citizen may Devise Lands which are within the same City in Mortmain, but not Lands out, and a Forrainer cannot Devise Land in London in Mortmain.

Costs against the Plaintiff.

THAT in every Court in Trespass upon the Statute of 5 R. 3. chap. 7. Debt, Covenant by Specialty, or upon contract, Detinue of Goods, Account, Action upon the Case, or upon the Statute for personal wrongs, ought to be remedied, if after appearance of the Defendant the Plaintiff be non-suited; or a Verdict pass against him, the Defendant shall recover his Costs, 23 H. 8. chap. 15.

If any be troubled by Attachment, or Arrested by Latitat, or in London, or in a Court which hath liberty to hold pleas, and no Count be put in within three dayes after the Bail put in, or otherwise appear (unless the Court of discretion gives longer day) the Defendant shall recover Costs and Damages; the same Law is if a Suit be discontinued after Count, or that the Plaintiff be non-suited, then the Defendant forthwith by discretion of the Court shall recover Costs, and the Statute gives Debt for the Costs, 8 Eliz. chap. 2.

But one Arrested by Bill of Middlesex, shall not recover Costs, though the Plaintiff do not count, or be non-suited.

If a matter pass against an Informer by Verdict or Judgment, the party shall have Costs, and shall have execution by a *Capias*, to satisfy *Fieri facias*, or *Elegit*; but these two last Statutes do not extend to a Court Baron, 18 Eliz. C. 5.

22 H.8.B.tit.Costs 25. In (*Quare Impedit*) the Plaintiff shall not recover Costs, for that the Damages are great, 35 H.8.tit.258.

2 Ma.tit.Costs 23. Debt by Lessor; if he be non-suited or barred, the Defendant shall recover Costs by the Statute, for it is upon a Contract for Rent.

2 H.7.f.13. Account, the Plaintiff shall not recover costs, but where the Defendant is adjudged to account, and pleads Bar, &c. It is otherwise.

9 H.6.f.66. He shall not recover costs, for that the Damages are treble by the Statute, 14 H.6. fol. 13. Forcible entry, the same.

In London by Act of Common Council in Trespas by force of Arms, and in all other Actions personal, if the Plaintiff be non-suited, or a Verdict against him, and Judgment upon it, or Judgment upon demurrer against him, the Defendant shall recover his costs by discretion of the Court; but if the Plaintiff sue as Executor or Administrator, which is not upon his own act; the Defendant there shall not recover costs, and yet Trespas (by force of Arms) is not within the Statute, 23 Hen. 8. chap. 14. to have Costs.

Damages.

IT seems if one take my Beast, and after they return to me again, I shall have Trespas for taking, but upon the evidence I shall not recover the value, though the value be in the Writ, 11 H.4.f.23. 1 H.6.f.8. 19 H.6.f.34.

In what plaints Damages shall be recovered in Court Barons, and in what Cases in Court Barons and other Courts, and in what not.

In plaint in nature of	Cousinage.
Affise of Novel Disseisin,	Replegiare,
Grand-father and Great-Grand-father.	Covenant.
Entry by Disseisin,	Debt.
Nuper obiit,	
Mortdancer.	

*Damages and Costs shall be recovered by
the Plaintiff.*

Eight marks were given in plaint of Land in Court Baron, *Plowdens Commentaries*, t. 394. B.

If any avow for Rent, or doing damage, Custome, or Service, if the Plaintiff be non-suited, or otherwise barred, then the Avowant shall recover damages and Costs, as the Plaintiff ought: See 19 H. 8. fol. 8. and 12 H. 8. chap. 19. Rast. tit. Avowry 1.

Discent.

THen for that, that the second Article is to enquire who is Tenant, and what advantage the Lord shall have by the death of his Tenant: It behoveth to know, who is in by Discent to be your Tenant, that you may know of whom to have relief, and who to be in Ward, and who not, and who shall be said in by Discent, and where by purchase, and where he shall not be in by Discent.

Gift to one in tail, Remainder to the right Heirs of J. S. which was dead. T. S. hath that as right Heir, and is in by Purchase, and shall not pay relief nor be in Ward, 40 Ed. 3. 9. & 32 Ed. 3. Fitzh. Discent 8.

Lord and Tenant, the Tenant aliens in Mortmain, and the Alienee is Disseised, and the Disseisor dyeth seised, his Heir is in by discent; yet the Lord may enter within the year, for he hath only a title to enter, and cannot have action, but contrary to him that hath right of entry and may have Action, 1 Ed. 6. tit. Mortmain 6 Bro.

Lease for life, the Remainder to the right Heir of J. S. the Tenant for life dyes, living J. S. the Remainder is void, and J. S. nor his Heirs shall not be said in by Discent to pay relief, nor otherwise shall have the Land as Purchasor, 9 H. 6. f. 24. Perkins f. 12. the same.

Lease for life, the Remainder to the right Heirs of J. S. and J. S. dyes, Tenant for life hath aid of T. S. son and Heir of J. S. and though he were within age, he shall not have his

his age, and shall not pay relief, nor be in Ward if they hold by Knight-Service, and be within age, for that he is in as a purchaser, 11 H. 4. f. 74.

Lease for life, the Remainder to another in tail, which dies, his Issue within age, and after the Tenant for life dyes, the Issue is in by discent, and if he be within age, and hold by Knight-Service, he shall be in Ward to the Donor, 33 H. 6. f. 5.

And for that, that in the said second Article of Charge, you ought to enquire if any Tenant be dead, who is his next Heir: Let us now see where a Woman is with Child at the time of the death of her Husband Tenant, and by whom sh^e shall be judged with Child, and who shall be said in after the death of the Husband as Heir, and shall be Tenant to the Lord, and who not.

IF the Husband Tenant dye seised, and his wife with child, and a Brother of the Husband enter as Heir, as he may, and after Issue is born, this Issue is Heir to the Husband, and Tenant to the Lord, and not the Brother, though he were Tenant and Heir before the Issue was born, 41 Ed. 3. fol. 11.

A man Tenant hath a Daughter, his Wife with child with a Son, and makes a Feoffment upon condition, and dies, and the Daughter enters, for the condition, &c. and after the Son is born, this Son shall not be Heir nor Tenant of this Land: The same Law is where there is a Lease for life, the Remainder to the right Heirs of J. S. Tenant for life dyes, the Daughter enters, and after the Son is born he shall not be Heir and Tenant of that Land, 9 H. 7. f. 25. Plow. f. 56.

Daughter enters after the death of her Father Tenant, and takes profits, and after the Son with which the Wife was with child, is born, he may enter and have that as heir, and shall be in by discent and Tenant. but hath no remedy for the profits taken by the Daughter before he was born 9 H. 6. f. 26.

If a woman Tenant seised in Fee hath a Daughter, and being with child with a Son, the Husband dyes, and after the Wife is ravished, and consents to the Ravisher, and the

Daughter enters by the Statute as next of blood, as she may, and after the Son is born, he cannot enter upon the daughter, and be Heir and Tenant to the Lord, *Plow. Com.* 1. 56. 5 Ed. 4. f. 6.

By terms of the Law Thirty, and *wilby*, if a man Tenant seised of Land in Fee, dyes seised, his Wife privily being with child with a Son, and another man marries her, and after the Son is born, he shall be adjudged the son of the second Husband, and not of the first Husband, and shall be Tenant to the Lord, of the Land of the second Husband; and *Berry* Justice said, That the Infant might choose which he would for his Father, 21 Ed. 3. f. 39. Otherwise it is, if she had been great with child.

If a Woman be with child by her Husband Tenant, or by another, it shall not be tryed; but if she be with child at the time of the death of her Husband, or not, shall be in Issue; for by 1 H. 6. f. 3. If the Wife of J. S. go away with an Adulterer, and hath Issue, if J. S. her Husband be within the four Seas, the Issue is Heir of J. S. for by whom the Woman is with child, it cannot be tryed, and for that it shall be intended by J. S. 41 Ed. 3. fol. 11. & 7 H. 4. f. 9. the same.

If a man marry a Wife which is great with child by another man, and within three dayes after marriage she is delivered, and the Husband dyes, the Issue is lawful, and Heir and Tenant to the Lord, and no Bastard, 18 E. 4. f. 30. a.

24 H. 8. Br. Title Bastardy 44. it was said, if a man marry his Cousin within the degrees of Marriage, and have Issue, and are divorced in their lives, and by that the Marriage is avoided, and the Issue is a Bastard; contrary if one dye before the Divorce.

21 H. 7. f. 41. If a Deacon takes a Wife and hath Issue; this Issue is no Bastard; otherwise it is of a Marriage between a Fryer and a Nun if they have Issue.

11 H. 4. fol. 76. said by our Law, if one marry his Cousin, their Issue is no Bastard till they are Divorced, but shall take by Discent.

42 Ed. 3. fol. 11. If a man marry a Wife, and living, that Wife, marry another, and hath Issue by the second, this Issue is a Bastard, notwithstanding that the first Wife after dyes, and shall not take by Discent.

For that, that in the same second Article of Charge it is inquired, If any Tenant of the Lord be dead; who is heir and Tenant to the Lord, let us now see where the half blood is impediment; and where not.

TENANT gives Land to the Father for life, remainder to Rich. his son in tail. The remainder to the right Heir of the Father; the Father dyes: Rich. enters, and dies without Issue of his body, his brother of the half blood shall have the Land, and not the Uncle of Rich. and shall be Tenant, and the half blood is no impediment, 39 E. 3. tit. 5.

A man Tenant had Issue by two several Bellies, and dies, the eldest Son enters, and endowes his Mother; the Heir dies without Issue, the Tenant in Dower dyes; the youngest Son of the half blood shall inherit it, and shall be Tenant, 7 H. 5. f. 2. 58 Assises, 6. accordingly.

Father leased of an Advowson in grosse, hath a Son and Daughter by one Belly, and a Son by another and dies, and the eldest dies before presentment, the youngest Son shall be Heir, and the half blood is no impediment, 3 H. 7. f. 5. Fitzh. f. 39. O.

If the Father Tenant hath a Son and a Daughter by one Belly, and a Son by another, and lets to one for life, and dies, and the Reversion is descended to his eldest Son, which dies before the Tenant for life, this is no possession, that the Daughter shall have the Land, but the Son of the half blood shall be Tenant to the Lord; but if Reversion of Term of years were in the eldest Son which dies before the Term ended, the daughter shall have the Land and shall be Tenant to the Lord, and not the Son for half blood, is impediment, 5 Ed. 4. f. 9.

But in the Case next before, where there is a Rent reserved upon the Estate for life by the Father, and the eldest hath the Reversion and Rent, and dies, the Daughter there shall inherit, and the half blood is an Impediment to the Son to be Heir and Tenant; yet if the Father dies, and the eldest Son dies before payment of Rent, there it is otherwise, 35 Book of Ass. 2.

If a man Tenant hath Issue two Daughters by several Bellies, and dies, and they enter and make division betwixt them; if one die without Heir general or special, her part shall Escheat to the Lord, and not descend to the sister of the half blood; but if that sister hath an Uncle, it ought to descend to him: and if he enter and dies without Issue, it shall descend to the sister of the half blood. See *Littleton*, fol. 3. *Natura Brevium*, fol. 10.

If a man Tenant hath three Daughters by one Belly, and a Daughter by another, and dies; and the four Daughters enter, and two of them by the first belly die, now the third of the whole blood shall have three parts, and shall be Tenant of that to the Lord, 10 Ed. 3. tit. 13. and 10 Ass. 27. accordingly.

Note, That a possession of a Brother to make the Sister Inheritor, and not the Son of the half of blood, is onely of Fee, and not of Fee-tail, 32 Ed. 3. tit. 8. 37 Book of Ass. 15. accordingly.

If the Donee in tail have a Son and a Daughter by one Belly, and a Son by another, and dies; and the Son of the first Belly enter, and dies seised without Issue, the Son of the second Belly shall be Heir and Tenant to the Donor, and not the Daughter, *Natura Brevium*, fol. 147.

If a man hath a Son and a Daughter by one Belly, and a Daughter by another, and Lands are given to the Father for life, the remainder to the son in tail, the remainder to the right Heirs of the Father; the Father dyes, and the son enters and dyes without Issue, the two daughters shall be Heirs and Tenants to the Lord, for the Son was not actually seised of the Fee, 5 Ed. 1. Tit. 14. 32 Ed. 3. tit. 9. 24 Ed. 3. fol. 24. & 37 Book of Ass. 4. accordingly.

The possession of the Brother, of Lands held by Knights service, where the possession of the Guardian, if the Son dyes in Ward, is possession of the heir to make the Sister inherit, and to be Tenant to the Lord, and not the Son of the half blood, 8 Ed. 3. Tit. 12. and 8 Book of Ass. 6. accordingly.

Land descends to two Coparceners, which are by several Bellies, and one dye before Entry into the Land, the other shall

shall have Mortdancester, as Heir of her Father of the whole Land, for that, that the other was never seised, 34 Book of Assises, 10.

Escheats.

where it shall Escheat and not descend; and where not.

And for that in the same second Article is also inquirable what advantage the Lord may have by the death of his Tenant; that is to say, Ward or Escheat. Now let us see what is impediment by Attainder, and otherwise, that the Issue of the Lands in Fee cannot be Heir by descent, not that his Father and Mother were married; and where the Lord shall have that by Escheat; and where not.

IF an Infant of the age of seven or eight years marry a Wife, and his Wife have issue within one year or two after marriage, this Issue shall not be his heir; and if he have no other Heir general or special, the Land shall Escheat, 38 Book of Assises, 24.

If the Father being an Alien, hath a son, and after the Father is made Denizen, and after hath another son, and after purchase Land and dyes, the youngest Son is heir; and if he die without Issue, the Lord shall have the Land by Escheat, and not the eldest son, for he is an alien, *Doctor and Student*, fol. 12.

The Eldest Son is attaint of Felony in the life-time of his Father, and is hanged; the Father dyes, the youngest son shall inherit, and it shall not Escheat: But if the Eldest son be attaint in the life-time of his Father, and survive the Father, the Land shall Escheat, 20 Book of Assises, 2. 46 Ed. 3. tit. Discent 6. 49 Ed. 3. fol. 11. & 31 Ed. tit. 17. accordingly.

If the Son be attaint of Felony or Treason, and after is pardoned, and after his Father dyes seised of Land, the Lord shall have that by Escheat, rather then the Son, 13 H. 4. fol. 2. 1 E. 3. tit. 15. accordingly. See before that, *Doctor and Student*, fol. 25.

Where the Husband is attaint of Felony, and purchase his pardon, and after dyes, his Wife shall not be endowed of

of Land, which he had before the attainder, but it ought to Escheat, but of those which he purchases after, the shall have Dower, and shall not Escheat, *Littleton*, fol. 11.

If the Husband seised of Land, commit Felony, and after alien, and after is attaint, the wife shall have Dower against the Feoffee; but otherwise it is, if it were Escheated, *Nat. brev.* fol. 7.

If the Son be Outlawed of Felony, in the life-time of his Father, and hath a pardon, and after the Father dyes seised of Land, the son shall not have these Lands, but the Lord by Escheat, though he hath divers sons, 31 Ed. 1. tit. 17. 11 H. 4. fol. 11. and 22 H. 6. fol. 38.

The Father outlawed of Felony, purchaseth a pardon and after purchaseth Lands, the son he had before the Felony may inherit them, and the Lord shall not have them by Escheat, 9 H. 5. fol. 9.

If one dye Tenant to the Lord, without heir general or special, as if the Tenant be disseised, and dyes without heir general or special, the Lord shall have the Escheat of this Land, though he did not dye seised, for that, that he dyed Tenant, 2 H. 4. fol. 9. 7 H. 4. fol. 18. accordingly, 32 H. 6. fol. 31. 36 H. 6. fol. 1. 6 H. 4. fol. 5. the same: and *Nat. Brev.* fol. 103. the same.

Where an Alien purchase, the King may seise, 11 H. 4. fol. 25. & 14 H. 4. fol. 20. accordingly.

And if a Denizen purchase and dye without Issue born within the obedience of the Queen, this Land shall Escheat to the Lord.

If an English Tenant marry an Alien, she is forthwith upon the marriage of the Kings Allegiance, and their Issue shall inherit, and it shall not Escheat, *Abridgment of the Book of Assises*, fol. 39.

Where there is Lord and Tenant, and the Tenant grants Rent-Charge, and dies without heir general or special, the Lord shall have the Land by Escheat, but he shall hold it charged, 3 Book of Ass. 1. The same Law is of the Kings Tenant, which grants Rent and dyes, &c. and his Heir in Ward by the Statute, 2 & 3 E. 6. chap. 8.

Lord and Tenant, the Tenant is disseised, and the Disfeisor

seisor dies seised, and the Disseisee dyes without heir, the Lord shall not have that as by Escheat; for I intend he dies not in his homage, 32 H.6. fol. 31. B.

Lord and Tenant, the Tenant lets for life, and dies without heir; though he dyed not seised, the Lord shall have Escheat, 2 H. 4. fol.9.

If one be attaint of High Treason, the King shall have Escheat, of whomsoever he hold; notwithstanding if it be of Petty Treason, the Lord shall have the Escheat, 22 Book of Ass. 49.

If the Tenant be beheaded for Felony, the Lord shall have Escheat, and shall say (for which he was hanged) Nat. Brev. fol.100. 8 Ed.3. in the Register, f.165. accordingly.

If my Tenant within age, alien to one in Fee, and within age die without heir, the Lord may enter by Escheat, 16 E. 3. tit. *Statham*, fol. 84. 3 E.3. Journey to North. See 6 H.4. fol. 3. *North*. That he cannot enter, but he may have Escheat.

It seems, that the Lord cannot enter by Escheat, where his Tenant's entry is taken away; as if the Husband discontinue the Lands of his wife, and the wife dies without Heir, the Lord cannot enter by Escheat, 32 H.6. fol.27. by *Littleton*.

If a man go over the Sea without License, and there takes a wife, and there by her hath Issue, if the Issue survive his Father, the Land of the Father shall Escheat, 22 H 6. f.38. by *Newton*.

1 R.3. fol. 3. by *Husey*, He which is born beyond the Sea, and his Father and Mother were English, that their Issue shall inherit by the Common-Law, but by the Statute aforesaid it is clear.

The same Law is, where an Alien born, purchases Lands of the King before he be made Denizen; or if he be a Denizen, and purchase Lands, and dies without Heir, born under the obedience of the King, there the King shall have the Land as Perquisite, in manner as Escheat.

Where the Tenant hath an Estate in Fee, and dyes without Heir general or special, his Land shall Escheat to his Lord. *Fitzh.* 143. T.

32 H. 6. fol.31. The Lord cannot enter, but where his Tenant might enter; and for that if the Husband and the
Wife

Wife discontinue, and the wife dies without heir, the Lord cannot enter by Escheat: And if the Tenant be disseised, and the disseisor dyeth seised, and his heir enter, and after the Disseisee dyes without heir, the Lord cannot enter.

37 H. 9. fol. 1. It seems by *Fortescue*, That the Lord shall have Escheat or Ward, though his Tenant did not die seised.

2 H. 4. fol. 9. The Lord shall have a Writ of Escheat, though his Tenant dyed not seised; for if he dye his Tenant, that sufficeth. If my Tenant lets for life, and dies without Heir, he doth not die seised; and yet the Lord shall have the Escheat, 7 H. 4. fol. 18. the same.

6 H. 4. f. 5. Lord and Tenant within age, the Tenant is disseised, and dies without Heir, the Lord may enter by Escheat. The same Law is, If he being an Infant Tenant alien and dies without heir, the Lord shall have by Escheat.

Fitzh. f. 144. A. If Tenant in tail die without heir, he in reversion shall not have a Writ of Escheat: But if Tenant in tail, the remainder to his right heirs, and dies without heir, then the Lord of, whom the Tenant in tail holds, shall have a Writ of Escheat.

Fitzh. 144. E. Where the Tenant is a Bastard, and dies without issue, this Land shall Escheat, tit. *Escheat. 34. B.* Where there is a Bastard eldest, and a legitimate younger, and the Bastard enters, and dies seised without Issue, the Land shall not Escheat.

Natura Brevium, fol. 103. If the Tenant be disseised, and is attaint of Felony, the Lord may enter by Escheat.

Abridgment of Assise, fol. 88. Lord and Tenant, the Tenant being within age, aliens and dies without heir, the Lord may enter by Escheat.

6 E. 3. *Statham*, If my Tenant within age alien in Fee, and dies without heir, I may enter by Escheat. The same Law is, If my Tenant within age be disseised, and dies without heir, I may enter by Escheat.

Stanf. 42. If any free Tenant of any Bishop be attaint for Felony, during the time of the vacation, the King shall have Escheat of his Lands: By Prerogative, chap. 14.

Fitzh. 144. O. If the Lord have title to have a Writ of Escheat, if he accept Homage of his Tenant, he shall not have a Writ of Escheat against him afterwards.

7 H.4. f.18. Lord and Tenant, the Tenant is disseised, and dies without heir, the Lord may enter, for right of entry may Escheat against a Disseisor; but if the Disseisor die, or alien, the Lord cannot enter by Escheat upon the heir of the Disseisor, nor upon the Alience.

22 Book of Assises, 49. The King shall have the Lands by Escheat of one attainted of High Treason, of whomsoever he hold, notwithstanding of Petty Treason, the Lord shall have them.

29 Book of Assise, 61. Note, That Lands in tail shall not Escheat for the Felony or Attainder of his Father, but by the Statute of 5 & 6 Ed.6. chap.11. for high Treason, the King shall have his Lands.

6 H.7. fol. 9. by *Keble*. Right of Entry may escheat, as where the Disseisee dies without heir, or is attainted of Felony, the Lord may enter.

7 Ed.6. tit. 18. It was held, If there be Lord and Tenant by Fealty and Rent, the Tenant is disseised, the Disseisee dies without heir, the Lord accepts the rent by the hands of the Disseisor, yet he may enter for Escheat, or have a Writ of Escheat, and the Receipt of the Rent no Bar: Contrary, if he had avowed for that in Court of Record, or if he had taken corporal service, as homage, &c. Contrary, of acceptance of Rent by the hands of the heir, of the Disseisor, or of his Feoffee.

48 Ed.3. fol. 2. by *Belk*. Where a man commits Felony, and after purchase Land, or Land descends to him after, this is forfeited and escheated, as well as the Land which he had at the time of the Felony made.

22 H.6. fol. 37. by *Newton*. A man seized of Land in Fee, goes beyond the Sea to B. out of the Kings allegiance, without the Kings License, and there marries a wife, and there hath issue, and dwells there all his life, and dies without other issue, the Land shall Escheat, and none other of the blood shall inherit.

1 R.3. fol. 4. by *Hussy*. He which is born beyond Sea, and his Father and Mother English, and faithful to our King, but their Issue shall inherit by the Common-Law, but the Statute makes that clear, and his Land shall not Escheat.

9 H.7. fol. 2. If Tenant of the King dies without heir, and none enters, the Freehold is in the King, without Office,

fice by Escheat ; but if Tenant of the King alien in Mortmain, it is not in the King without Office.

27 H.8. tit. Office, 90. Br. Where one is attaind by Parliament, his Lands are not in the King by Escheat, to grant over without Office.

29 H.8. tit. 52. Charter of Pardon, Br. The King may be intituled to Goods without Office, by Outlawry, but not to Lands.

38 H.8. title, *Thing in Action*, 211. Br. By the Statute of 31 H.8. gives to the King possession of Lands of Monasteries without Office ; for the words are, *Toat the King shall be in possession of them* ; yet if an Abbot were disseised of four Acres of Land, the King cannot grant that over, before entry made by him into it.

Time of H.8. tit. 119. Pre. Br. It seems, that the King shall not have a *Præcipe quod reddat*, as a Writ of Escheat, but his Title shall be found by Office.

Time of Ed.6. tit. *Denizen*, 17. Where an Alien born purchaseth, the King shall have it, but the purchase ought to be found by Office, 33 H.8. tit. Fines levied, 115.

Title, *Office before Escheator*, 60. Br. King shall have Charels without Office, but not Ward.

2 H.7. f.8. The King may re-enter without demand, where there is a clause of re-entry in his Lease, but then that shall be found by Office.

Tit. *Escheat*, 23. Br. Alien born hath issue a Son, and after is made Denizen, and after hath issue another Son, and purchases Land and dyes, the youngest Son shall have the Land, and not the eldest, nor the Lord by Escheat.

Tit. *Escheat* 29. B. Where a man is attaind of Heresie, and delivered to Lay-men to be burnt, yet he shall not forfeit his Land, unless he be put in Execution, and there by the Execution the Lord shall have Escheat, unless the Land be held of the Ordinary, then the King shall have it.

Enquest.

For that, tha you try your Copy-holders and other Issues by consent by Jury; let us see, how many shall be sworn of a Jury.

The Statute of West. 2. chap. 13. is, that the Sheriff shall inquire by twelve, and not by less, and the same Law shall be in Leet; and for that, that this Statute doth not extend to Court-Baron, Presentment of Articles there by less then twelve may be; for one may hold Court-Baron, though there be but two Suitors, and then they may inquire by two, of Articles for the Lord; but hard it is, when every one is inheritable to the Laws of the Realm; and the Tryal of the Law is by twelve, or issue joyned between party and party, that by your not power, that is to say, that there should not be 12 tenants of every Jury, to take from me my tryal, which the Law gives to me; and if you will try issue by less then twelve, you may impannel three or four of the Friends to the parties, and to have no number certain under twelve; but to have such a number as the Steward pleaseth; and to be at his choice, how many shall be sworn of a Jury, and how many shall be impannelled, is inconvenient, where there are more within the Mannor to be impannelled; and 40 Ed. 3. fol. 1. Where consufance is granted in one Court, to have consufance; if this Court fail, that it cannot make Law and Right, consufance shall not be in this case allowed, and for that that at the exigent, Bayliff demand consufance, & shall not have it, for they cannot pronounce Out-lawry upon that; and in *Quare Impedit*, they shall not have consufance, for they cannot award a Writ to the Bishop. 42 Ed. 3. fol. 3. Where one was Out-lawed, Consufance was demanded, and could not have it, for that he could not award *Capias utlagatum* there; and so it seems, if there be not twelve to try the Issue, they fail of power to minister Law, and to do Justice; and Copy-holder may sue by Bill in Chancery, where there are not twelve Homagers within the Mannor, or in Action of Trespas at the Common Law, and the party ought to be admitted in the Lords Court, to the intent, to bring Trespas at the Common Law, and there Law is more truly administred then in Court Barons; and also

if any sue in Court-Baron for Copy-hold, he shall make his Protestation to sue in nature of his Writ at Common Law; and the process and proceedings shall be according to the course of the Common Law, and they shall joyn Issue according to the course of the Common Law, and there (*Venire facias*) is, That they shall cause to come twelve free and lawful men, according to the course of the Common Law; and for that it seems, that Tryal of Issues there between parties shall be by twelve, and not by less:

And by *Fortescue*, fol. 54. & 57. (sworn together in the form aforesaid, twelve good and lawful men) so it appears by him, that every Issue in every Court shall be tryed by twelve, and not by less.

Enquest shall be by Custom of the Realm, between party and party, in a Court of Record, by twelve at the common Law, Doctor and Student, fol. 14.

Verdict of 11 shall not be taken, 41 Aff. 11. 41 E. 3. fol. 31. and 29 Ed. 3. fol. 33. accordingly.

Every Inquisition taken in the Sheriffs turn, shall be by twelve, and the same Law is said there in a Leet by the Equity of the Statute of 6 H. 4. fol. 3. Notwithstanding (i.e.) if less then twelve may try Issue between parties in the Court of a Lord of Copy-hold, or not, where there are not twelve within the Mannor; for it is held by some, that it shall be tryed by less; and I have seen a Tryal between three or four. But I intend it is hard, and specially where there are twelve, and more Copy-holders within the Mannor; and also it appears in the Register, that an action was removed out of the Court-Baron (because there were but four Sutors) and so I conclude, Issue for Copy-holders shall not be tryed by less then by twelve, 6 H. 4. fol. 1.

18 H. 4. fol. 1. Charter of exemption, that he shall not be impannelled, shall not be allowed, unless a full Jury appear.

39 Ed. 3. tit. 23. A Writ of not putting in Assises shall not be allowed in an Attaint, nor in a Writ of Right.

21 Ed. 4. fol. 53. If a man have a Charter of Exemption, and that shewed to the Sheriff, and he notwithstanding impannels him; Trespass upon the Case lies against him.

Fitzh.

Fitzh. 205. A. A Writ not to be put in Assises and Juries is found d upon the Statute of Westm. 2. chap. 39. and upon *Articuli super Chartas*; which Statutes declare, that persons shall not be impannelled, that is, who is sick, lame, and above 60 years old.

Fitzh. 266. Clerks which have Lands by discent, or by purchase, shall be impannelled.

5 Ed. 3. fol. 26. Presentment in Leet by four, and not by twelve, that one had dwelt within the Leet a year and a day not sworn, was traversed; but it seems, if he were presented by twelve, it shall not be traversed; but if it were false, he shall have recovery by Writ of false Presentment, seek of this Writ.

46 Ed. 3. fol. 26. Presentment in Leet, that one hath dwelt there by a year and a day, and not sworn, shall be by twelve, otherwise it is traversable.

3 H. 7. 4. If there be not twelve to be sworn, the Steward may swear a stranger, which comes within the view to be sworn in Leet.

The Lord may hold Court-Baron, though there are but two Tenants, 23 H. 8. and 33 H. 8. and then two may present Articles for the Lord; but where Issue is between party and party, it shall be by twelve; for the *Venire facias* is twelve free and lawful men, which is tryal by Common-Law; and that, it seems, shall be the tryal of Copy-hold Land: yet *Fitzh.* 41. in Right shall be great Assise, that is, 24. of a Jury, and attainr shall be 24, but if in Court Baron the *Mise* be joyned to be tryed by great Assise, there shall go a Prohibition, &c.

Fitzherbert 107. C. Enquest of Office, as in a Writ to inquire of Waste; it may be inquired by six or eight, 2 H. 4. fol. 7. and 3 H. 6. fol. 29. the same.

13 H. 8. fol. 13. Where a Lord of Parliament is arraigned, here shall be eighteen or twenty Lords of the Enquest, and they shall not be sworn.

20 H. 7. fol. 3. Jurors may drink after their Charge, and before their agreement at their own proper Charges; it seems their Verdict is good, for there doth not appear any corruption in them, nor that they drank for any corruption; for all drank together, and every one was in as good plight to resist as others are.

19 Ed. 4. fol. 8. After the Jury sworn, and before they enter into a House, and before their departure from the Bar, they drink by license of the Justices, and by the consent of the parties, and their Verdict good.

10 H. 4. fol. 20. After the Jury was sworn, the Plaintiff delivered a writing to a Juror without the Court, and he shewed that to his Companions in the House, and the Jury gave Verdict; and he shall not have Judgment, 11 H. 4. fol. 17. the same. *Plowd. Com.* fol. 519. the Jury gave a special Verdict, and a B x of Barberies conserved, Sugar-Candy, and Licorish was found with one J. M., one of the Jury after that he was departed from the Bar: J. M. was committed to the Fleet, till he had paid a Fine, and the Verdict good: See 8 *Aff.* 35. and 20 H. 6. fol. 26.

Tryal.

IN Court-Baron, the Tryal is there by waging Law; but by the consent of the parties it may be by the Country, 33 H. 8. B. tit. *Tryal* 143. 3 Ed. 6. tit. *Pannel* 2. Where the Jury is of two Tongues, for that, that the one is an Alien, and the other an *English* man: there shall be six *Denizens* sworn, and six *English* men, otherwise the Jury shall not be taken, and so shall be (*Tales*) of that.

4 *Mar. B. tit. Jurors* 8. Jury took a Writing of the Plaintiff which was not delivered to them in Court, and passed for the Plaintiff; and for that, that the matter appeared to the Court by examination, therefore the Plaintiff shall have no Judgment.

35 H. 8. B. tit. *Replead* 54. It was in use in the Kings Bench, though that the Jury was ready to pass there, if there be a (*Jeofail*) apparent in the Record, the Jury shall be discharged.

26 H. 8. fol. 6. Jurors, after they are in the House, return to hear evidence again upon matter which they were in doubt of, and may.

14 H. 7. fol. 1. The Jury eat and drink before the Evidence finished, or, after they are agreed, depart and drink before Verdict; they shall be fined, and the Verdict is good: but if they eat and drink after Evidence given, and before they agree, the Verdict is void.

And

And it seems that this matter shall be shewed when the Jury comes to give their Verdict, and shall be examined, and not after. And it seems, that the Jurors may depart asunder by cause of great tempest, of a House falling, or fire where they are.

EXECUTION.

For that, that Execution is used in many Court-Barons by (*Licari facias*); let us see what Goods upon that may be taken in Execution, and what not; and the order of Execution.

Goods pawned, shall not be taken in Execution, for the Debt of him which pawned them, during the time they are pawned, 34 H. 8. Pledge 28. and 4 Ed. 6. Distress, 75.

Where A. lets Oxen for time, and after A. is condemned, these Oxen during the term shall not be taken in Execution, 22 Ed. 4. fol. 10.

Debt in Court-Baron, the Plaintiff recovers by Judgment, and shall have Execution; and the Beasts of the Defendant were taken and delivered to him in Execution, 33 E. 3. tit. Execution 133.

In Debt, where they are bound jointly and severally, and hath of those three several Judgments; and if Execution against one, the other shall have a *Superedeas*: but in Trespass against three, Execution against one doth not suffice; and the same Law is in a Joint-Debt, 4 Ed. 4. fol. 39.

By (*Fieri facias*) or (*Licari facias*), the Officer cannot break the Door nor Chest, to take Goods in Execution; for if he do, Trespass lies against him for the breaking onely, 18 Ed. 4. fol. 4. and 13 Ed. 4. fol. 9. by Choke, notwithstanding, 8 Ed. 2. tit. Executors 152. contrary.

If one recovers in Court Baron, he shall not have Execution by *Fieri facias*; nor otherwise, but may distrain the Defendant after Judgment, and detain the distress in their hands in safeguard, till the Defendant hath satisfied the Plaintiff of the Condemnation, 22 Aff. 72. Statham, 11 Ed. fol. 91. Nat. brev. fol. 165. and 4 H. 6. fol. 17. Affior.

Bayliff in Court-Baron cannot sell the Goods in Execution, but shall restrain them as Distress, notwithstanding, where it is used to make *Levari facias*, it is a good Custom; and more, that it is used in many Mannors, that the Goods are praised, and Execution made of them by *Levari facias*, 22 Book of Ass. 71.

A Writ of Execution *Judicii*, lyeth where Judgment is given in Court-Baron, upon a Writ of Right Patent, or in Debt or Trespass, and the Bayliff will not make Execution; this Writ lyeth as well, as it lyeth where Judgment is given in a Court of Record: and the Sheriff will not make Execution, and he will not levy the Execution upon the Goods, it was in vain to award this Writ, *Fitz b. fol. 20. A.*

Capias doth not lie in Court Baron, and for that, the *Capias* to satisfy, doth not lie to have Execution; and *Elegit* doth not lie there, &c. for this is given by the Statute of *Westm. 2. chap. 18.*

29 H. 8. tit. Execution, B. 132. Two are bound in an Obligation joyntly and severally, if he shew one, and takes his Body by a *Capias* to satisfy, yet he may take the other; but if one satisfy him, the other may plead that, 37 H. 8. tit. Condition, B. 16. One taken by a *Capias* to satisfy, is in Execution, though that be not returned.

13 H. 4. tit. Advowries 237. One avows for that, that J. S. was seised of a place, where, &c. and lett that to the Plaintiff for his life, rendering Rent, and after J. S. grants the Reversion to B, who was bound in a Recognizance to the Advowant; and that the Advowant hath that Rent delivered in Execution, and good.

15 Ed. 3. tit. Execution 93. Rent was delivered in Execution upon a Recognizance, time of Ed. 1, Title *Audita querela*, 402. If the Father be bound in a Recognizance, and dies; and his Issue within age, the Execution shall not be against him; for if it be, he shall have an Assise.

Time of Ed. 1. tit. 417. If a man takes a Wife, and after be bound, and dies, the Wife is endowed, if she be outd by Extent, she shall have Assise, 29 H. 8. Tit. Stat. Merchant 40. If one sue Execution upon a Statute, and he accept part of the Land in name of all, he shall not have extent of the residue; but it seems upon a (*Nihil*) returned upon the *Testatum*, he may have process into another County.

2 R.3. fol. 8. Statute Staple was certified by the Mayor of the Staple, and the Conisee upon that sues a Writ to take the Body, and to extend his Land to *Suff.* and *Middl sex* onely, and this Writ was not returned; and by Certiorare he caused the Mayor to certifie the Statutes again, and upon that he hath a Writ of extent in ten Counties, but not in *Suff.* and *Middl sex*, and this Writ is not returned; and he hath the third Certificate, and the third Writ of Extent into six Counties, but not in *Suff.* and *Middl.* and now hath his Extent, and hath Land that the Cognisor hath in right of his Wife, which died, and for threats, durst not take the profits of the Residue, and by all the Justices the Cognisee shall have a *Capias* into the County where he took his first Writ, and not otherwise; that is, into the County of *Suff.* and *Middl sex* only, upon the fourth Certificate; and upon that the Cognisor found Sureties to the King and party, according to the Statute, 11 H. 6. chap. 10. He shall have a *Scire facias* against the Conisee, to prove the matter in his Writ, and to be at the Judgment in the Court; and if he fail of any, he shall forfeit his Recognisance.

2 R.3. fol. 9. If the Conisee of a Statute dies, his Executors or Administrators, if he die *Intestate*, shall have execution upon it, without saying (*Scire facias*), or that the Conisor cannot have any Plea, although he hath a Deed of Release; but if he have a Release, he shall have an (*Audita querela*) or a (*Scire facias*); and so it is, where one which is no Executor sues an Execution, the Conisor shall have this Writ; but upon recovery by the Statute of *West.* 2. one may have a *Fieri facias* within the year to have Execution, and after the year may have *Scire facias*; and if a man be bound in two Statutes, one after the other, and he which hath the last Statute, hath first Execution; the other shall have a *Scire facias*, and have Execution; and if the Sheriff, upon a Writ to have Execution, returns the Conisor dead; the Conisee shall have a *Scire facias* against the Heir of the Conisor and the Land Tenants.

25 H.7. fol. 17. Where the Conisee, to whom a Statute is made, dies, his Executors shall have Execution without suing *Scire facias*, for that it is given by the Statute; but where one hath a Judgment, and dies, it is otherwise.

West. chap. 45. gives *Scire facias* upon Judgment, and upon Fine.

15 *H. 7.* fol. 14. Husband is bound in a Statute, and Lands of his Wife were extended; and after the Wife dies, and the Heir of the Wife enters, now may the *Conifec* have a *Capias* for the Body of the *Conifor*, though he had not at the first, for that, that the Statute gives the Lands, Goods, and Body; and if Execution be defeated by lawful Entry, he shall not have a Re-extent: but if the *Conifor* himself take the profits of the *Conifec*, or that the profit be destroyed by wild-fire, or water, the *Conifec* may hold over his Term; and the *Conifor* cannot enter during the Term of Extent, but shall have a *Scire facias*, and shall not have that before the Term ended without Acquittance, or that he leave money in the Court; and where the *Conifec* is satisfied within the Term by casual profit, the *Conifor* shall have upon that a *Veni-re facias*, and upon that a *Scire facias*; and if it be extended too low, the *Conifor* may lay the Money in Court, and recover his Land; and if it be found too high, the *Conifec* may pray that the Extenders may take the Land, &c.

11 *H. 6.* fol. 8. If the Land extended, be drowned by water within the Term, the *Conifec* may hold over the term; and the same Law where he is outed by a Guardian in Knights Service, 15 *Ed. 4.* fo. 5.

22 *H. 8. chap. 5.* Where Lands delivered by reasonable extent in Execution, have been recovered, or lawfully divested from the *Conifec* of the Statute-Merchants, Statute-Staple, or Recognifances, before they have been fully satisfied, and paid their Debts without fraud or covin, remedy given by *Scire facias* against the Recognifors to levy the residue.

Where a Woman recovers Damages in Dower in Bench, she cannot have Execution thereof of those Damages recovered by *Capias ad satisfaciendum*, for that, that the *Capias* doth not lie in the Original, 11 *H. 7.* fol. 15. 2 *H. 4.* fol. 7.

The Statute of *Westm. 2. chap. 18.* gives *Elegit*, that is to say, That the Sheriff shall deliver all the Chattels of the Debtor, (except the Oxen and Beasts of the Plow) and the half of his Land, and that doth not extend to a Court-Baron,

Baron, but to Courts where Process is directed to the Sheriff, and the Statute is also when a Debt is recovered in a Court of the King. And Court-Baron cannot award the half of the Land in Execution; for it is no Court of the Kings, but of the Lords, and he cannot meddle with Lands without the Kings Command: but in other Courts, Execution shall be of Land, which hath a day of Judgment given, and of Goods in this Court; and Beasts which the party hath day of the Execution awarded; and see also Execution of Recognisances and of Statutes, for your Learning.

Execution shall be of Land, which hath day of recovery, 7 Ed. 3. fol. 92. and 21 Aff. 2.

A man shall have Execution of Lands, which he had, day of the Judgment, and not before *Abidgement*, Aff. fol. 93. 19 Ed. 2. Fitzh. Execution 249. *Natura brevium*, fol. 168.

A man shall have Execution in Debt of no Land, but of that which the Defendant had, day of the Judgment given, and of Chattels which he had day of the Execution sued, *Natura brevium*, fol. 107. and 2 H. 4. fol. 15.

It seems, that all the half the Lands which a Recognisor hath, which enters into a Recognisance day of that, or after, are liable in Execution by *Elegit*, 24 Ed. 3. fol. 27. tit. Execution 90. Fitzh. 267. D. and 2 H. 4. fol. 9.

Note, where one is bound in a Statute, Execution shall be of all his Lands which he had day of the Statute acknowledged, or after, in whose hands they come by Feoffment, or otherwise, but it is not said so of Goods and Chattels; and for that they shall not have them in whose hands they come, but those only which had in his hands day of the Execution awarded.

But if the Cognisor, after the Statute acknowledged, lets his Lands for years, the Cognisee may oust the Lessee, for the words are, *In whose hands they come*, by Feoffment, or in other manner, *Statute of Merchant*, fol. 48.

To have Execution of a Statute Merchant: First, You shall have a Writ of Certificate in the Chancery, and there upon Certificate shall go a *Capias*, returnable in the common Bench, or Kings Bench; and then, within one quarter of a year that it shall be taken, shall go an Extent of all his Goods

Rt. Recog.

2.

Goods and Lands. See the Statute of Merchants, 37 H.6. f.6. Fitzh. 130. G.

Statute-Staple shall be certified as the Statute-Merchant is, and upon that shall go a Writ of Execution to take him, and to extend his Lands, and this shall be returned in the Chancery, and not into the Common Bench, or Kings-Bench, as the Writ of Execution upon a Statute-Merchant shall be, and upon this shall go a Liberate, Fitzh. f. 131. D.

15 H.7. fol. 14. Upon a Statute-Staple, he shall have the Body, Lands and Goods by a Writ, and upon a Statute-Merchant: First, a *Capias* by a quarter of a year, &c. and upon the return of that (*Non est inventus*) shall have a Writ to have Execution of his Goods and Lands.

Upon a Statute-Staple after a Certificate, shall go out a Writ to take his Body, and to take his Lands in what County he will; and if that be returned, he cannot have Extent in another County, that is to say, a Liberate, 2 R. 3. fol. 7.

Upon a Statute Staple shall go a *Capias* out of the Chancery, returnable in the Chancery to take his body, and to seise his Lands into the Kings hands, and at the day of return of that Liberate, 37 H.6. f.6.

Note, that the Statute of Merchants, fol. 79. is, That an Execution upon a Recognizance shall not be made, as it is upon a Statute-Merchant; but as it was used by the Law before the making of this Statute: and this was to have a *Scire facias*, and upon that an *Elegit*, or a *Fieri facias*.

Upon a Recognizance there shall go no *Capias*, but it is used otherwise at this day, that is *Scire facias* returnable into the Chancery, and they use now to award a *Capias*, *Fieri facias*, or *Elegit*, 48. Ed. 3. f. 14.

Statute-Merchant hath two Seals, and one is the Seal of the party, and for that upon that he may have Debt to have Execution; but Statute-Staple, only the Seal of the Party, 15 H.7. f. 15.

A man may sue Debt upon the Statute Merchant, Staple or Recognizance. See Statute-Merchants, Fitzh. 122. D. & f. 77. the same.

Note, That there are four manner of Executions; And note, Covin to defeat them, void.

THERE are four manner of Executions, that is of body by *Capias*; of *Chattels* by *Fieri facias*, or *Lands* by *Execution*, and after the year after Judgment, by *Action of Debt*, 11 H. 4. f. 42.

Debt upon Recovery, shall not be within the year after Judgment, but after the year, 5 Ed. 4. f. 1.

If after Judgment one gives his Goods to one, to defraud me of Execution, and notwithstanding takes the profit of them, I shall have Execution of these Goods, 42 Book of Ass. 72. 3 R. 2. the same, and 50 Ed. 3. the same.

All Conveyances of Lands and Hereditaments, Goods and Chattels, Leases, Rent, Common or Profit, or charge out of Land, Judgment, Execution, Deeds by Fraud or Covin, to the intent to defraud Creditors and others, of their just and lawful Actions, Suits, Debts, Accounts, Damages, Forfeitures, Heriots, and Reliefs are void, only against the Persons, their Heirs, Successors, Executors, Administrators, and Assigns, and every of them, whose Actions, Suits, Debts, Accounts, Damages, Forfeitures, Heriots and Reliefs, by such fraud shall be, or may be hindered, delayed or defrauded, notwithstanding feigned consideration, expressing of use, or any other matter or thing to the contrary, 13 Eliz. chap. 5.

Debt against Executors, they plead Gift of all the goods of their Testator by Deed, without that, that they administered other Goods; and the Plaintiff avers, That the Gift was made to defraud the Creditors, 13 H. 4. fol. 9. See 16 Ed. 4. f. 9.

Issue was taken, If the Goods were made away to defraud Execution, or not. 43 Ed. 3. f. 3.

Where Debtors make Gifts and Feoffments feigned, of their Goods and Lands, to their Friends and others, and take Priviledges, and take profits of their Lands and Goods so given by fraud, there shall be a *Capias* and Proclamation, and after, Execution of his Lands and Goods, 2 R. 2. Stat. 2. chap. 3.

Rastal,
Debt 5.

Where

*Rafal,
Execution
5.*

Where Debtors make Gifts and Feoffments, as it is said in the Statute of 2 R. 2. and fle to places priviledged, and take profits, that the Creditors shall have Execution of the said Goods and Chattels, as if no such gift had been made, 50 E. 3. chap. 6.

26 H. 8. fol. 2. If a man takes a Wife which hath goods, and aliens them by Covin, supposing a Divorce to follow, and after they are divorced, the Wife may aver the Covin, and have her Goods again.

33 H. 6. fol. 5. One buyes in Market open, Goods taken by wrong, if the buyer have knowledg of the wrong, the property is not altered.

14 H. 8. fol. 9. By Brook, If I by fraud and Covin cause one to take your Goods, and to sell them to me in an open Market, yet that shall not change the property, for that I am party to the Covin.

At Northampton before the Lord Dyer, there was a Deed of gift of Goods shewed, and in that it was exprest by words to the use of the Donee, and yet it was averred, That it was by Covin.

44 Ed. 3. fol. ult. A Woman hath good cause to be endowed, and she procured J. S. to out the Tenant, and then she brought a Writ of Dower against J. S. and recovered, and had Execution, the Tenant may have an Assise against her, and recover.

22 Book of Ass. 1. Assise, the Tenant, hanging the Assise, enseoffs another, or suffers another to enter, and recovers by *Formedon* by elder gift; this Covin shall not hurt the Plaintiff, but that he may recover.

38 Book of Assises, Where one was outlawed of Felony, alledges Imprisonment at the time of the Outlawry; and it was replied, That he was in Prison by his own Covin, and issue upon that.

41 Book of Assises, 2. A man hath right of Action, and makes one by Covin to enter upon him which is in by discent, and recovers; he shall be adjudged to be in as an Abator, and not by Title.

Evidence.

Evidence.

ANd for that, that you have not many times Counsel in your Court-Barons, and for that, that it is many times pleaded to the general Issue where it ought not; It is now expedient to shew what matters may be given in Evidence upon general Issue, and what not. And first, where the Defendant pleads the general Issue, and shews in Evidence, That the Plaintiff hath no such cause of Action as is brought, nor no cause of Action, this is good Evidence upon general Issue.

Action upon the Statute of (*Parco fracto*) not guilty, and Evidence that he hath no Park, is good, 19 H.6. fol. 7.

Trespasse in Warren, not guilty, and Evidence that he hath no Warren, is good, 10 H.6. fol. 17. & 34 H.6. f. 7.

Trespasse by Warden of the Fleet, not guilty, and Evidence that he is not Warden, is good, 4 Ed.4. fo. 7. and 12 E.4. f. 7.

Trespas of a House broken, not guilty, and Evidence that the Plaintiff hath no House there, is good, 22 H.6. fol. 7.

Trespas, not guilty, and Evidence that the place where the Trespas was done, is the Freehold of another, and not of the Plaintiff, is good, 4 E.4. fol. 5.

Debt against a Vicar for holding Farms, He hath not against the form of the Statute, and Evidence that he had, for maintenance of his house, it is good, 27 H.8. fol. 25.

Action upon the Case, of finding his Goods, and converting them to the use of the Defendant, not guilty, and Evidence that they were not goods of the Plaintiff, is good, 3 *Mw.* & 33 H.8. *Action upon the Case*, 209. Otherwise it is, in Trespas, 27 H.8. f. 25.

Debt upon Arrearages of Account, he oweth him nothing in manner, and form, and evidence that there was no such Account, is good, 2 H.6. f. 26.

Debt upon Arrearages of Rent upon a Lease for years, he owes him nothing, and evidence that he did not demise, is good, 7 H.7. f. 3.

Debt upon sale of a Horse for forty shillings, the Defendant may plead; he oweth him nothing in manner and form;

form; and Evidence, That the sale was of two Horses for forty shillings; or that it was of an Ox for forty shillings, is good, 21 E.4. f.26. & 9 E.4.1. by *Moyle*.

Waste, no waste made, and evidence, that the House was burnt by the Kings Enemies, or by Thunder, or it was ruinous at the time of the Lease, is good: And so every thing that is no waste; for that proves, that the Plaintiff hath no cause of Action, 12 H.8. f.1. & 22 H.6. f.56. in maintenance, not guilty; evidence, that the thing that is done is no maintenance, is good.

Action of Extortion against the Sheriff, which pleads, that he took not; and evidence, that by prescription he hath bare Fee of every one which he takes, and is good; for it is no Extortion, 21 H.7. f.17.

4 E.4. fol.5. Trespass, the Defendant pleads not guilty, and gives in evidence, that it is the Freehold of another, and good; for then the Plaintiff hath no cause of Action.

2 H.6. fol.26. Debt upon Arrearages of Account, he owes him nothing in manner and form; and evidence, That there was no such Account, is good, for he hath no such cause of Action.

2 *Mir.* & 33 H.8. tit. Action upon the Case, and Count upon finding the Goods, and converting them to his own use; the Defendant pleads, Not guilty, and gives in Evidence, That they were not the Goods of the Plaintiff; for he hath no cause of Action, 5 H.7. f.3. the same.

10 H.7. fol.24. *Cessavit*, That he held divers Lands by intire service; he did not hold in manner and form, and gives in evidence, that he holds by several services, is good; for he hath no such cause of Action.

27 H.8. fol.25. Trespass of Goods carried away, the Defendant pleads, that the property of the Goods was not in the Plaintiff, and that is no plea in Trespass but in *Replegiare*. And some for that seem, that this is no good evidence in Trespass, upon a Plea of not guilty.

9 H.7. fol.3. Debt for Rent upon a Lease for years, that he oweth him nothing, and evidence, that he did not demise, is good.

upon a General Issue, the Defendant by evidence to convey to himself in cress and title, is good Evidence.

Trespasse of Goshawks taken, not guilty, and Evidence, that he had a Lease of a Wood for years, where they were taken, it is good, for it is a title, 16 Ed. 4. f. 2.

Trespasse, the Defendant pleads his Freehold, and gives in evidence, a Fine with Proclamation, it is good, for it is a title, 27 H. 8. f. 27.

Trespasse, not guilty, and in evidence a Lease for years, is good, 12 H. 8. f. 2.

Account of receipt by the hands of J. S. the Defendant pleads, he was never his Receiver; and evidence, J. S. gave that to him, is good, 2 H. 4. f. 13.

Action upon the Case of finding Goods, and Converting them to his use; the Defendant pleads not guilty, and evidence that they were pawned to him for 10 l. is good, 4 Ed. 6. Br. 113.

Trespasse, not guilty, the Defendant may give a Lease for years in evidence; Contrary, of a Lease at will, for this is determinable at pleasure, 25 H. 8. *Generall Issue*, 82.

Trespasse of Goods taken, the Defendant may plead not guilty, and evidence, that he recovered, and had them delivered in Execution, and is good, 12 Book of Ass. 73.

Trespasse, not guilty, and evidence, that the property was to J. S. which gave them to him, is good, 9 H. 6. fol. 11.

Affise by a Woman, no wrong, and Evidence, that her Husband enfeoffed him, is good, 45 Book of Assise, 8.

Defendant

Defendant upon a General Issue, if by Evidence he acknowledges that he did the wrong, and justifies it, and gives matter which goes to discharge him of the Act by justification; this Evidence is not good, but he ought to have pleaded that.

Trespas, not guilty, and evidence, that the property was to J. S. and that he, as servant, and by his commandment took them; it is not good, for he acknowledges by the Evidence, that he made the Trespas, and justifies that, 25 H.8. *General Issue*, 81.

Waste, No waste made is pleaded, and evidence, that the Plaintiff let to him the House and Land by Deed, and granted to him by the same Deed, that he might cut Trees to repair that, it is not good evidence: The same Law in Debt, he owes him nothing, and evidence, that the Plaintiff hath released that to him: The same Law in Trespas of Battery, not guilty, and evidence, that he did that, (in defending himself) it is not good: The same Law in maintenance, not guilty; and evidence lawful maintenance, it is not good; for these matters in evidence are justifications, which go in discharge of the party, and not by Title, but by Justification, 12 Hen. 8. fol. 1.

Trespas, not guilty, and evidence, that he had a Close joyning, that the Plaintiff ought to inclose, and for not inclosing they enter, it is not good, for it is contrary to (not guilty) and is a Justification, 19 H.8. f.6.

Trespas, not guilty, and evidence that it was the Freehold of J. S. and that he licensed him to enter, by virtue of which he entred, it is not good; for it is Justification, 4 Ed.4. f.5.

Trespas of Battery (not guilty) and evidence that it was made in his defence, not good, 11 H.4. f.63.

25 H.8. *Br. tit. General Issue*, 81. In Assise or Trespas, if the Defendant pleads no wrong, or not guilty, he cannot by evidence entitle a stranger, and justify by his Commandment: So for Common; Rent-service, Rent-charge, or justify by License; these ought to be pleaded, and not given in Evidence: Contrary, of a Lease for years.

34 H.8.

34 H.8. Title, *General Issue* 89. Debt upon an Escape out of Execution, Defendant cannot say, that he escaped not, and give in Evidence that he was not Arrested, for that it is in Plea.

17 H.8.21. By *Fitzherbert* and *Shelly*, in Debt upon the Statute of 21 H.8. against a Vicar for taking Farms, the Defendant saith, that he neither had, nor kept to Farm, against the form of the Statute; he may give evidence, that he took that for maintenance of his House, by the *Proviso* in the Statute, notwithstanding *Gawden* denied it.

20 H.6 fol. 24. Debt upon Arrerages of Account, the Defendant saith, he oweth him nothing in manner and form, and gives in evidence that there was no such account, and by *Newton* it is good, and yet he might have pleaded no such Account.

22 H.6. fol. 56. Debt against Abbot for-borrowing, he may account generally, that the ten pounds borrowed came to the use of the house, and give in evidence how, as in buying of bread and drink.

Evidence which is contrary to that in Issue, or which is not answerable to the matter in Issue.

Nothing passed by the Deed, and evidence that it is not his Deed, is not good, for it is contrary to the Issue, and to that which he acknowledged in his Plea by Implication, 5 H.4. fol. 2.

Mordancester, the Tenant saith, That he is ready to bear the Recognition of the Assise, and in evidence that the Plaintiff is Bastard, it is not good, for it is contrary to the thing, admitted and implied, 22 Book of Ass. 3.

Covenant, Issue was, if the Defendant had made an Estate sufficient to the Plaintiff of *Higgins Close*, or not, and evidence that it is not so much in value, it is not good, for it is not answerable to the matter in Issue, 27 H.6. 35.

Trespass, the Defendant justifies for Common appendant, and gives in Evidence that he hath Common by reason of Neighbour-hood, it is not good, for it is not answerable to the matter in Issue, 13 H.7. f. 13.

11 H.4. fol. 63. Trespass of beating, not guilty, and evidence that it was in his defence, it is not good, for it is a matter of justification and contrarying.

7 Ed. 6. tit. 14. In Debt upon an Obligation made for Usury, if the Defendant plead (It is not his Deed) he cannot give in evidence that it was made for Usury, for it is contrarying.

5 Ed. 4. fol. 5. Debt upon Obligation, for letting him to bail, and doth not name Sheriff, the Defendant ought to plead that, and so not his Deed, but not generally (nor his Deed) and give that in Evidence, for it is contrarying.

3 H. 7. fol. 5. Where two are bound jointly and severally, and one Seal is broken, yet in Debt against the other, or against him, he cannot plead (not his Deed) and give that in evidence, for it is contrary; but he may plead the special matter, and conclude, so not his Deed.

5 H. 7. f. 2. If one plead nothing passed by the Deed, he cannot after give in evidence that it is not his Deed, for it is contrarying.

9 H. 7. fol. 3. Detinue, the Defendant saith, he doth not detain, and he cannot give in Evidence, that he hath that in pawn, for it is contrarying.

where the Evidence proves the effect and substance of the Issue, is good.

THe Plaintiff pleads a Lease simply, and gives in Evidence a Lease upon condition, and for that, that the Condition is performed, it is good, for the Evidence proves the effect and substance of the Issue, and for that it is good, 14 H. 8. f. 20.

28 H. 6. f. 9. The Array was challenged, for that, that was made at the denominating of the Clerk of the Plaintiff.

Evidence that it was made by the Bailiff of the Francise at his denomination, is good.

44 Ed. 3. fol. 39 J. S. pleads a Feoffment made to him, and gives in Evidence that there was a fine which is a Feoffment of Record, and is good.

27 H. 8. fol. 29 Action upon the Case by the Husband, or an *Assumpsit* made to him, and given in evidence that it was made to his Wife, to which he agreed, and is good.

14 H. 8.

14 H. 8. *fol.* 18. False Imprisonment, if the Defendant justify by Warrant, if the Warrant were after the Arrest, the Plaintiff may say of his own wrong, without that, that he had any Warrant, and may give this matter in Evidence.

Forrain matter pleaded in Court-Baron.

IF a Plaintiff be in the Court-Baron of a Debt or Trespass, and Forrain matter is pleaded there, it shall not be tryed in Bench, though that this Court shall be out of the Jurisdiction; but it seems shall be tryed in the County where the Court Baron is, or the Forrain matter is alledged to be done, 1 H. 5. f. 12.

A man cannot remove a Plea out of the Court-Baron into Bench, but in a *Replegiare*, and not in Debt or Trespass, unless that the Damages are not to forty shillings, 14 H. 8. f. 17. by *Fitzh.*

Note more before that.

Fines.

where it shall be paid by Copy-holder, that I have seen used, is as insues.

NOte, that it is commonly said, and the ground of paying Fines is, that a Fine is due to the Lord upon every alteration and change of Tenant, that is to say, upon every admittance of every new Tenant, to the Lord by Copy, as upon every Alienation by surrender and admittance upon that, and upon every discent and admittance upon that; also if a Copy-holder surrender into the hands of the Lord, to the use of divers and their Heirs, as to 2, 3, or 4. and their Heirs; upon the admittance of them the Lord shall have but one Fee, for it is but one surrender, and one admittance of a Tenant, and upon the death of the survivor, and the admittance of his Heir, then another Fine, so that the Fine is to be adjudged due alwayes upon admittance

tance of Tenant, and not without admittance.

And for that if two be admitted, and one dyes, the other shall have his part by Survivor without new admittance, and shall not pay a Fine.

Also where a Surrender is made to the use of a Husband, and his Wife, and to the Heirs of the Husband, upon their admittance the Lord shall have but one Fine, for it is one surrender, and both are but one new Tenant, and after the death of the Husband and the Wife, upon admittance of the Heir of the Husband, the Lord shall have another Fine.

Also where a surrender is made to one for life, and after his death, the Remainder to another, and the Heirs of his body begotten, and for default of such Issue, Remainder to a third and his Heirs; in this Case admittance of the Tenant for life, vests the Remainder in the others; and divers Learned Stewards take but one Fine only of admittance of a Tenant for term of life, and nothing of those two in remainder, when the Remainder falls; but I have seen that every one in the Remainder, when they come to the Land shall make Fine, though it be not the whole Fine, but a half, and every one is admitted when a Remainder fails; but it need not, for by the admittance of the Tenant for life, the Remainder is so vested, that he in Remainder need no other admittance, and they are but one Estate and one surrender; the same Law is where there is a surrender to one for life, the Remainder to another and his Heirs, there shall be but one Fine. But then it is good, that both be admitted together according to the surrender, at the time of the surrender made.

Also where one out of the Court by Custome, surrenders into the hands of two Tenants to the use of himself for life, and after his death to the use of J. S. and his Heirs, and dyes before the next Court, and then all this is presented at the next Court, he in the Remainder shall be admitted and pay but one Fine; for it is impossible to admit one which is dead, and by the Act of God his Fine is gone; and now there is but one to be admitted, and upon one surrender; and one being to be Copyholder, shall be paid but one Fine.

Also where a Copyholder is admitted upon surrender, he shall pay a Fine; but if it be so that he have Common

recovery in plaint, in nature of a Writ of entry in the (*Post*) upon his better assurance; and for to defeat an Estate tail, those which recover have Seisin by command (by *Habeat facias Seisinam*) and also they are in, in the (*Post*) and by the recovery; and for that no Fine shall be there paid to the Lord but one, for the recovery was also but for further assurance, and the surrender and all make but one Tenant by Copy, and so there is due but one Fine.

Also where the Custome is, that for every Cottage and for every House, the Lord shall have upon every alteration and admittance of Tenant, for one Fine three shillings; and there if a Cottage or a house is decayed, it is called a Home-stall, and by the Custome also, for every Home-stall he shall pay for a Fine three shillings there; if the Tenant makes of one house two houses, or build a new house, he shall not pay a Fine for these new houses, nor for two houses, which before was but one; for the Prescription doth not hold place but for the old houses.

Also where the Custome is, that for a Fine for a License to let for years, the Tenant shall pay for every House which the Tenant lets for every year that he hath License, four pence, there if he make of one house divers Cottages, as of Barns and Stables, divers Cottages there for License to let his house, he shall pay but four pence for every year that he hath License to let the whole, and not for divers houses, for otherwise the Prescription doth not hold place.

Also if Tenant for life, and he in Remainder or Reversion joyn in a surrender to one and to Heirs, he to whose use the surrender is made, shall pay but one Fine; for it is but one admittance and not several, and one surrender and not several, and there is but one Tenant admitted; the same Law, where two Joynr-Tenants, two Tenants in Common, or Coparceners, surrender to one and his Heirs, shall be paid but one Fine.

Also a Woman is married a Virgin, she shall have all for her Dower by the Custome, there it is used she shall pay a Fine, and it is reason, for that she is admitted; the same Law is, where a woman hath a third part by the Custome for Dower, but it is used commonly within Mannors, to pay but half a Fine; which is paid for Inheritance; but the Custome of the Mannor is to be considered in this Case.

If a Copyhold be surrendered upon condition, and the condition is broken, he which surrenders may re-enter without paying Fine or new admittance.

Forfeiture of Copyhold.

WHere a Copyholder of Inheritance according to the Custome of the Mannor, is out-lawed in an Action personal, as in Debt or other Action personal, he shall not forfeit the profits of his Copyhold to the King, for that, that he hath but an Estate at the Will of the Lord, and the Freehold is in the Lord; but where a Copyholder is attaint of Felony or Treason, the Lord shall seise the Copyhold as forfeit to him, and not to the King; notwithstanding where one holds by Charter and is out-lawed in Action personal, the King shall have the profits of that Land, 9 H. 6. fol. 20.

But if he make a Feoffment after he is Out-lawed, then the Feoffee shall have the profits, 21 H. 7. fol. 7. accordingly: Yet it is otherwise as is aforesaid, where a Copyholder is Outlawed in a personal Action.

If one by an Indenture bargain and sell all his Lands, Tenements, and Hereditaments in D. and inroll that according to the Statute of 27 H. 8. C. 16. and hath in D. Lands held by Charter, and other Lands by Copy, and after levy a Fine, and suffers recovery of that accordingly; yet the Copyhold is not forfeit.

The same Law if a Copyholder hath so much Land in D. held by Copy, and makes a Feoffment of all his Land in D. and makes no Livery, this is no forfeiture, for the Feoffee is but Tenant at will; the same Law is if the Copyholder let to one for life, and make no Livery, it is no forfeiture.

The same Law is, If one enfeoff J. S. by Deed of all his Lands, Tenements, and Hereditaments in D. and holds in D. part by Charter, and part by Copyhold, and makes Livery of that held by Charter, these other Lands held by Copy are not forfeit; but if he make Livery in any part held by Copy, there is forfeiture of all his Copyhold in D. expressed in the Deed.

But

But if one hath in D. certain Lands in Socage by Charter, and certain other by Copy, and devise all his Lands, Tenements, and Hereditaments in D; this is no Forfeiture of the Copy-hold there.

It is said, that a Copy-holder cannot alien by Deed; and for that some coll. & If A. lett Copy-hold without Deed for years, that it is no Forfeiture. *Littleton, fol. 15.* Yet inquire.

And *Littleton, fol. 45.* is, Where Lord lets to his Villain by Deed for years, he is made free, and without Deed it seems he is made free; and 24 *Ed. 3.* in Villainage after, by *Wilby* without Deed, is no Infranchisement by Lease.

And so some say, that a Lease by Copy-holder by Deed for years, is Forfeiture; and where it is without Deed, proving the Lease, it is no Forfeiture; yet inquire: but if it be not a perfect Lease by word for years, but by words of implication, and gives no fine nor other consideration, and the Copy-holder gain-say that Lease, when it comes in question in the Lords Court, this seems no Forfeiture; also if a Stranger makes waste, as in cutting Trees growing upon the Copy-hold, where, by the Custom of the Mannor, the Copy-holder cannot make waste, this is no Forfeiture: the same Law is, where a Copy-holder by license of his Lord, hath let for years to J. S. which makes waste, this is no Forfeiture of Copy-hold of Inheritance.

Also if one within the View of Copy-hold, saith to one, *I will not out you during your life, or within the Copy-hold*; he saith, *I am content, that you shall have my Copy-hold Land for term of your life*, or lets to him for life without Deed, and without Livery upon the Deed, it is no Forfeiture.

Where one hath a Rent-Seek, if the Tenant upon demand deny to pay it; or if the Tenant be not then ready to pay, this is a denying, which is Disseisin; but if the Copy-holder do not deny to pay his Rent upon Demand, though he have no money ready to pay that, and so doth not pay that, it is no Forfeiture. *Littleton 51.* See 42 *Ed. 3. fol. 25.*

If a Copy-holder be in Prison divers years, and by that means comes not to make Suit at divers Courts, but is absent; yet this is no Forfeiture of his Copy-hold: the same

Law is, if his Rent be demanded upon the Land, and he is in Prison in the Goal; this is no Forfeiture; the same Law is, if he be hindred by infirmity, or by stop of Waters, to come to the Lords Court, or to pay his Rent; it is no Forfeiture.

The same Law is, if he be much in Debt, and in fear to be arrested; or if one be bankrupt, and keep his House, and doth not come to the Lords Court, but makes divers defaults, these are no Forfeiture of the Copy-holds.

But if he deny to come to the Court of the Lord, this is a Forfeiture of his Copy-hold.

But if the Lord claim a Fine, Custom, or Service, which is in doubt, whether due or not; and the Tenants pray the Lord, that the Homagers may inquire if it be due, or not, and saith, *If it be found by the Homagers upon their Oath, that they are due; or if there can be Presidents shewel, that it is due, he will pay it; this is no Forfeiture of his Copy hold.*

If twelve are assembled against the Form of this Statute; then if any Copy-holder, being a Yeoman, Handy-craftsman, Artificer, Husbandman, or Labourer, and being of the age of eighteen years, or more, and under forty years; not Impotent, Lame, Maimed, nor having reasonable excuse; and being required to serve the Queen for any the causes in the Statute, and refuses, he shall Forfeit his Copyhold during his life, 1 *Muy, chap. 12.*

If a Copy-holder in Court-Baron will say to his Lord, That he extorts and exacts Fines and Services not due, or such unreverent words of his Lord, and they be false, that is fineable, but no Forfeiture. But if he deny to be Tenant to the Lord; and to be a Juror of the Homage, it is a Forfeiture; but if a Copy-holder indict his Lord, or gives in evidence in an Action against his Lord, or arrest him, or commence a Suit against his Lord in any Court of the Queens; these are not finable, nor no Forfeiture.

If Tenant in tail be of a Copy-hold, the Remainder over in Fee; if the Tenant in tail be attaint of Felony, it seems that the Issue in tail shall have the Land, and not the Lord.

If a Copy-holder make a Feoffment of his Copy-hold, and the Feoffee dies seised, and his heirs levy a fine of that, and five years pass, the Lord is barred to seise the Land by Forfeiture, as it seems.

Some Copy holder by the Custom may make waste; and is no Forfeiture; and waste by some Copy-holder is Forfeiture.

Lopping of Trees by a Copy-holder is no Forfeiture; but a Copy-holder cannot lop Trees, and burn that in the House upon other Land or Mannor; nor sell the lops, unless by the Custom he may make Waste.

If a Guardian in Socage of a Copy-hold make waste, the Infant shall not forfeit his Copy-hold, but only the Interest of the Wardship. But **Quære**, If Lessee for years of a Copy-hold make Waste; and **quære**, when he is Lessee for years by Surrender; and when he is Lessee by the license of the Lord: it is said, it is a Forfeiture but during the Term.

J. S. seised in Fee of an Acre in D. by Charter, and of another by Copy, and makes a Feoffment and Livery in the Acre by Charter in name of them both, it is no Forfeiture of the Acre by Copy; but if he make Livery in the Acre by Copy, in name of both, the Acre by Charter passes, and it is Forfeiture of the Acre by Copy.

If a Copy-holder suffer a common recovery against him at the Common Law, and after Surrenders to the use of another which is admitted, and after one or two Admittances pass upon Surrender; yet after, when the Lord takes notice of the Forfeiture, he may well seise it for that Forfeiture, for that, that the Copy-hold was destroyed by the Forfeiture. But otherwise it seems, if the Forfeiture do not destroy the Copy-hold; as if he make Waste, or break any Custom, the Lord is barred by this admittance, as it seems.

If a Copy-holder levy a Fine, and five years pass after Proclamation; this, it seems, bars the Copy-holder and his Heirs, but it seems doth not bar the Lord: but if a Copy-holder make a Feoffment and livery of his Copy-hold, and after levy a Fine, and six years pass, now the Lord is barred.

If two Joynt-Tenants by Copy are, and one makes waste in all the Land, yet he shall forfeit but one part.

If the Heir of a Copy-holder having notice of the death of his Ancestor do not claim within the year and day, after the

the death of the Ancestor, and Proclamation made, he shall lose it for ever: but otherwise it is, if he be beyond Sea, or within age; or a Woman having a Husband, it seems she shall not lose by not claiming.

Tenant for life of Mannor is, and Copy-holder of that commits Waste, and the Tenant for life dies; he in Remainder may seise the Land for this Waste, for that it is a Forfeiture which runs with the Land.

See before Forfeiture, touched in the Title of Copyholder.

Formedon.

In so much that Plaints are sued in Nature of Formedon for Copy-holds, something shall be said touching Formedon. And first, let us see where a Formedon lies, and where not: and for that, that there are three manner of Formedons, that is, Formedon in Discender, Remainder, and Reverter, in Fitzh. Nat. Brevium, and there declared how every one lieth; much shall not be said, but what is in Fitzh. Natura Brevium, touching the lying of a Formedon.

Formedon in Discender lieth where the Donce in Tail, or free Marriage, aliens that Land so given in Tail, or is disseised and dyes, his Heir shall have a Formedon in Discender, to recover these Lands so given in Tail. Fitzh. fol. 211. A.

Where Tenant in tail aliens, or is disseised; or if recovery be against him by default, after default, and he dies, his Heir shall have a Formedon; for the Heir shall not have other recovery of the possession of his Ancestor, than by Formedon; but if he be outed of his possession, as if he be seised, and put out, he shall have Assise, *Natura brevium*, fol. 145.

Formedon lies by the Heir of a Gift made before the Statute of *Westm. 2.* Where the Donce, after the Statute aliens, and dies; and yet the Statute is, (to Gifts before made, it shall not be extended) 12 H. 4. fol. 9.

Where there is a Tenant in Dower, or by the curtesie, the reversion to another in tail, if one intrude after the death

of the Tenant in Dower, or by the curtesie; he in reversion shall not have Intrusion, but Formedon, *Fitzh. 204. D.*

Woman, Tenant in Tail, takes a Husband, which aliens, and after they are divorced, and after the Wife dies; the Heir of the Wife shall not have a (Cui in vita) but a Formedon, *Fitzh. fol. 204. K.*

If Tenant in Tail lets for life, and the Tenant for life aliens in Fee; the Tenant in Tail shall have a (confinili), or a Formedon at his pleasure, *Fitzh. 207. D.*

Where Land is given to one for Life, the Remainder to the Father in Tail; if it were executed in the Father, and he alien, the Issue may have a Formedon in Discender generally; or may have special Writ, making mention how it was given for Life, the Remainder to his Father in Tail; and one or other is good, *44 Ed. 3. fol. 6.*

In conveyance of Degrees, ye need not name him Heir, but Son of him which was not seised; but it is a surer way to name him son and heir to every one, if he were seised or not; but he cannot omit any in his Writ which was seised.

If the Defendant omit in Formedon, one which held the Estate; that is to say, who was seised, the Writ shall abate; otherwise is in *Scire facias*, *4 Ed. 2. tit. 48.* Formedon in Discender shall abate, for that he omitted one in the Writ which held an Estate, *44 Ed. 3. fol. 40.*

The Demandant in Formedon ought to make his Discender, by all which held the Estate; otherwise, the Writ shall abate, *46 Ed. 3. fol. 9.*

Though the Demandant be made Heir to him which dyed in the life of his Father, which was not seised; yet the Writ shall not abate, but is good, *48 Ed. 3. fol. 7.*

Where the Demandant in Formedon in Discender makes mention of any, and not of all, the Writ shall abate, *49 E. 3. fol. 20.*

Formedon, and the Register was shewed; by which it was held, that he ought to make him Son to every one, and Son and Heir to him which last held the Estate; but if he makes him Son and Heir to every one, that is more; and good, notwithstanding that every one did not hold the Estate, *11 H. 6. fol. 25.*

The Writ is not the worse, though in the same it be mentioned, that he is the Heir of one, or that he should have scarce been Heir to him if he had lived, if he be Heir to him that last was seised, 11 H. 4. fol. 70.

The Demandant in Formedon ought to make him Son and Heir to him that was seised; but if one survive his Father, and were not seised, he need not make himself Heir, but Son only; but it is a sure way to name him son and Heir, or Cozen and Heir to every one, *Fitzh. fol. 212 F.*

Formedon abates, for that he made himself Cozen and Heir to the Donee, where his Father was seised after the death of the Donee, and no mention was made of him, 10 Ed. 3. tit. 41.

Esplees shall be alledged in Formedon in Reverter, in the Donor and in the Donee; and in Formedon in Discender and Remainder, in the Donee only.

Formedon in Reverter, It behoveth to lay the Esplees in his Count, in the Donor and Donee; but in Formedon in Discender and Remainder, in the Donee only, 50 Ed. 3. fol. 1. *Fitzh. fol. 220.*

Formedon in Remainder, he alledgeth Esplees in the Tenant for life, and not in the Donor, and in Formedon in Reverter, in the Donor and Donee, 9 H. 6. fol. 53. 11 Ed. 3. tit. 31. the same, and 18 Ed. 2. tit. 20.

Formedon in Remainder, he Counts upon the matter without laying the Esplees in the Donor, and it is good, 27 Ed. 3. tit. 36.

Of what things Formedon lyeth, and of what not.

Formedon lyeth of Gorse, but not of an Advowson, *Fitzh. fol. 217. B.* It lies of pasture for 10 Beasts, and not of Common; but a Writ called *Quod permittat*, *Fitzh. 212. B.*

Formedon lyeth of Common in gross. Inquire of 15 Ed. 3. *Statham, fol. 95.* It lies of a Corody; that is to say, of Rent, and certain breads, by the Opinion of the Court, 18 Ed. 3. *Statham, 110 Book of Assise, fol. 11.* *Nuper obiit*, was maintained of a Corody.

Ward

Ward.

For that, that in the second Article is inquired, if Tenant of the Lord dyes; if his Heir shall be in ward, or not: and for that let us see where the Lord shall have the ward of the Heir of his Tenant within Age, which holds of him by Knights-Service; and where not.

ANd note, where the Heir of Lands held by Knights-Service, shall be said in by Discent, to be in ward, and where not: If the Father devises his Lands, held in Knights-Service, to his Son and Heir in Fee, and dies, his Heir within age, he shall be adjudged in by Discent, and shall be in Ward: But if it were devised to his Son and Heir, and to the Heirs of his Body; the Remainder to another in Fee, and dies; the Son within age, he shall not be in ward, for he is in as a Purchase; 33 H. 6. fol. 47.

Where the Heir recovers Land held in Knight-Service in Formedon in discenter, he shall be adjudged in by discent; and, if he were within age, shall be in Ward, 2 R. 3. fol. 14. and 11 H. 7. fol. 12. Inquire, if he recover in *Dum non fuit compos mentis*: See Fitzh. fol. 114.

If the Heir enter for the Condition broken, in Lands held by Knights Service, he shall be adjudged in by discent, and shall be in Ward, if he be within age when he enters, 11 H. 7. fol. 12. 7 H. 4. fol. 13. and 6 H. 4. the same.

If the Father and the Son purchase Lands held by Knights-Service to them, and to the Heirs of the Father; and the Father dies, though the Son within age, he shall not be said in by discent to be in Ward, 43 Ed. 3. fol. 36. But by 32 H. 8. chap. 1. If they be held of the King by Knights-Service, the King shall have the Ward of them.

Where two or more hold jointly Lands held of the King by Knights-Service, to them and to the Heirs of one of them; and he which hath the Inheritance dies, his Heir within age, the King shall have the Ward of the Body of the Infant, though that the other which hath the Free-hold be alive. See the Stat. of wills, 32 H. 8. chap. 1.

Ra. wills 23

If an Infant in the life of his Father be made Knight, and his Father dies, he shall be in Ward; but otherwise it is, where an Infant in Ward is made a Knight, there he shall be out of Ward, 2 Ed. 6. tit. Ward 42: Magna Charta, chap. 3. Where

Where Reversion discends to the Issue within age, he shall be in Ward; but where he hath a Remainder by Purchase, 'tis otherwise; and where he in Remainder dies, his Heir within age shall be in Ward, *Stamf. fol. 6. and 7. the same. See the Comment.*

35 *H. 8. tit. 119.* A person twice in ward, where a woman was young with childe; as a man dies seised in Land held in Knights-Service, his Brother and Heir within age; the Lord seises the Ward, the Wife of the Tenant being young with childe with a Son; and after the wife is delivered, the Brother is out of Ward; but if the Infant die, the Brother yet within age, there the Brother shall be in Ward again: the same Law where a Daughter is in Ward, and after the Son is born,

28 *H. 8. tit. Ward 86.* If the King hath an Heir in ward, which is a Woman, and she marry to one before she be of the age of 14 years, there she shall be in ward but to the age of 14 years, and then may sue Livery; for the two years to make 16 years, are not given but to tender Marriage; and for that she shall be out of ward at 14 years.

The Husband seised in Fee of Lands held in Knights-Service, enfeoffs divers at this day to the use of himself and his wife, and the Heirs of their two Bodies begotten, and for default of such Issue, to the use of the right Heirs of the Husband; and the Husband and the Wife hath Issue within age, and the Husband dies, though the wife live and hath the Land, the Issues shall be in ward of the Body, as it is said: The same Law, where a man seised of Fee in Lands held by Knight-Service, makes a gift in tail to J. S, the Remainder to his right Heirs, and dies, his Issue within age; he shall be in ward of the Body, though Tenant in Tail have the Land.

If a Reversion of an Estate for life, or for years, be in my Father, and that discends to me, I shall be in ward; but otherwise it is, of a Remainder: but if a Remainder of an Estate for life be in my Father, and that discends to me; and after Tenant for life dies, I shall be in ward, 11 *H. 7. fol. 19.* 33 *H. 6. fol. 6.* 8 *Ed. 3. tit. 23.* and 33 *Ed. 3. tit. 8.*

By Choke, If Infant be Tenant for life, and the Reversion discends to him, he shall not be in Ward, 9 *Edw. 4. fol. 19.*

Where

Where an Estate is to an Husband and his Wife, and to the Heirs of the body of the Husband, the remainder to the right Heirs of the Husband; the Husband hath Issue within age, and dies; the Wife is tenant to the Lord, and for that the Issue shall not be in ward.

And if Lands be lett to one for life, the Remainder to the right Heirs of J. S.; the same J. S. dies, and Tenant for life dies, T. S. being right Heir of J. S. and within Age, shall not be in Ward, for he is a Purchasor, 15 *Edw. 4. fol. 10.*

Tenant for life, the Remainder to another in Tail; he in Remainder dies, his Issue within age; the Issue shall be in Ward, if Tenant for life be dead, 33 *H. 6. fol. 6.*

Tenant for life, the Remainder in Fee dies, his Heir shall not be in ward, for Tenant for life is Tenant.

Lord and Tenant, the Tenant is disseised, and dies, his Issue within age, he shall be in Ward, *Fitz. fol. 142. R. C. D. Stamf. fol. 8. the same. 3 H. 4. fol. 16. the same, Littl. fol. 87. the same.*

Lord and Tenant, the Tenant hath a Daughter within age, being his Heir, and he marries that Heir to a Husband of full age, and dies, the Lord shall not have Ward of the Body; but if he marry his Daughter to a Husband within age, she shall be in Ward, *Natura brevium, fol. 98.*

Tenant for life, the remainder in tail to the Husband and his Wife, the Remainder to the right heirs of the Husband; the Husband and the Wife dye, his Heir within age, living the Tenant for life, the Heir shall not be in Ward, *Fitzb. 143. A.*

A man makes a Feoffment before the Statute of Uses, to the use of himself for life, the Remainder to W. S. in tail, the Remainder to the right Heirs of the Feoffor, the Feoffor dies; and W. S. dies without Issue, the right Heir of the Feoffor being within age, shall be in Ward; for he is in by descent, for the Fee was not out of the Feoffor: But where one makes a Feoffment in Fee, upon condition, to re-enseoff him; and the Feoffee gives to the Feoffor for life, the Remainder to another in tail, the Remainder to the right Heirs of the Feoffor; and the Feoffor dies, and he in Remainder in tail also dies without Issue, the Heir of the Feoffor within age, he shall not be in ward, 32 *H. 8. Tit. Estate Ward. 93.*

Estate is made to one for life, the Remainder to the Husband and Wife in Tail, the Remainder to the Right Heirs of the Tenant for life; the Husband and the Wife have Issue a Son, which hath Issue two Daughters, and after the Son and the Wife dies, and after the Son dies, and after the Tenant for life dies, the two Daughters within age shall be in Ward, 18 Ed. 3. tit 48.

Maylebridge, chap. 6. Gives the Lord remedy, where his Tenant aliens by Collusion, to defraud the Lord.

Maylebridge, chap. 16. Gives Mortdancer for the Heir in Ward against the Lord, unless he may have his Land at full age.

Prerog. chap. 6. If a Woman before the death of her Ancestors, which holds of the King in chief, before the years of Marriage, be married, then the King shall have the custody of her Body, till the age that she may consent, and then let her choose, &c.

If an Infant be married before the years of Marriage, in the life of her Father, and the Father dies, and the Wife dies before the dayes of marriage of an Infant; yet the Infant shall be in Ward, and shall be married again by the Lord. *Stamf. fol. 27. 5 Mar. Tit. Ward, 124.* It is held, That marriage is as nothing; for she may marry another, without Divorce, within the years of Marriage.

A Gift is made to one in tail, the Remainder to the right Heirs of J.S. which was dead; T.S. hath that as right Heir: but if he be within age, he shall not be in Ward, for he is in as Purchasor, 12 Ed. 4. fol. 2. 7 H. 4. fol. 5. 11 H. 4. fol. 52. and 15 Ed. 4. fol. 13. the same.

A Woman of the age of fifteen years, at the time of the Death of her Ancestor; shall not be in Ward, for the Lord shall not have Ward there till sixteen, 35 H. 6. fol. 48. and 28 H. 8. tit. 86. If the King hath a Woman in Ward, and she marry before fourteen, she shall be in Ward but to fourteen; for the two years are given to tender Marriage, and she is married. See *Westminst. 2. chap. 21.*

Merton, chap. 6. Gives ravishment of Ward, and double value; And *Merton, chap. 7.* gives the value of the Marriage, *West. 2. chap. 12. Magna Charta, chap. 6.* the Heirs shall be married without disparagement.

Morton, chap. 7. Of Lords which marry those that they have in their custody, to Villains or others, as Burgers, where they are disparaged: If such an heir were within fourteen years, and of such years that she cannot consent to the Marriage, then if the Parents complain of that Lord, the Lord shall lose the custody, till the Age of the Heir, &c. But if she were of fourteen years and more, and agreed to such marriage, no punishment follows; Littleton, 21. See what are disparagements; and what not.

Now let us see where your Lord shall lose the Ward, for that that he holds part in chief; and what he shall lose by that.

THe Lord the King shall have the custody of all the Lands, of those; which of him hold in chief, by Knights Service, of which the said Tenants were seised in their Demesne as of Fee, the day that they dyed, of whomsoever they held; by the like services, &c. *Prerogative*, chap. 1.

If any hold of us by Fee-Farm, or by Socage, or Burgage; and if another holds Land by Knights Service, We shall not have the custody of the Heir, nor of the Land which is of anothers Fee, by the reason of Fee-Farm, or Socage, or Burgage, *Magna Charta*, chap. 27.

11 H. 7. fol. 18. If one hold of the King in chief, and dies, his Heir within age, and hath Lands descended from another Ancestor, the King shall not have the Lands in Ward which descended from another Ancestor: And it seems, if a Remainder be in my Father, and that descends to me, I shall be in Ward of the Body, living the Tenant for life: Otherwise it is, of a Reversion; for Reversion is a Tenement and held: but if a Reversion descend, and the Tenants for life living, I shall not be in Ward; but if he dye first, otherwise it is. And if my Father dye seised of a Remainder, and the Tenant for life after die seised, during the time that I am within age, I shall be in Ward.

Ra. Wards,
12.

32 H.8. tit. ward, 97. Where a man holds certain land of the King in Socage in chief, the King shall not have Livery of more then of the Land in Socage: The same Law, where he holds in Knights Service of the King, and not in chief, the King shall not have more in Ward, but only that which is held of him immediately.

If one hold of the King in chief, the King shall have all his Lands in Ward, as well held of him as of others. But otherwise it is, if he hold of the King, onely by Knights Service, *Stamf. fol. 6.*

Though that the Tenant of the King be in possession of Lands held of others, the King shall have them in Ward by his Prerogative, *Stamford fol. 7.* Where the Tenant of the King doth not hold of the King in chief, the King shall not have the Ward of Lands held of other Lords, *Stamf. fol. 10.*

Grandfather, Father, and Son In ant; the Grandfather is seised of a Mannor held of J. S. and the Father of another Mannor held of the King in chief, the Father dies, the King shall have the Ward of that Mannor; and after the Grandfather dies, the King shall not have the Ward of his Mannor: The Statute of Prerog. is, *That the King shall have the custody of all the Lands, &c. of which the Tenants themselves were seised of in Fee, the day that they died; and for that, that the Father was not seised of that, the King shall not have it in Ward, 15 Ed.4. t. 10.*

If any hold of the King in Fee-Farm, Socage, or Burgage, and holds also of another in Knights Service, the King shall not have the Lands held of another in Ward, by reason of those, *Magna Charta, chap. 17.*

Ra. Wards,
3.

Where a man holds certain Lands of the King in Socage in chief, of these he shall not have Livery of more then the Land in Socage, 32 H.8. tit. 97. Also where one holds of the King by Knights Service, and not in chief, the King shall not have more in Ward, but that onely which is held of him immediately, during the time that the Lands are seised in the Kings hands in Ward; otherwise, Lords shall lose their Rents, that is to say, that they cannot distrain during that time, *Stamford. fol. 9.*

Where one holds part of his Land of the King in chief, and part of another Lord, and dies his Heir within age,
and

and the King takes the Ward of all; it seems that the Rent of another Lord, and service is but suspended, for the time that it is in the hands of the King, 26 Hen. 8. fol. 9.

The Seigniorship of another Lord, in the case next before is suspended but from the distress, during the possession of the King, 13 H. 7. f. 15.

If a man holds part of the King, and part of another Lord, and dies, his Heir within age, which intrudes at his full age, and pays the Rent to the other Lord, this is a good Seisin, and shall binde him after he hath sued his Livery, for the Seigniorship was not suspended by the possession of the King, but only the distress; for after Livery, the other Lord may distrain for the Arrearages due before. See now, 34 H. 8. Tit. Seisin, 48. Ed. 6. chap. 8. That the Lords shall have their Rents during the minority, at the hands of the Kings Officers.

26 H. 8. Tit. Ward, 85. If the Kings Tenant alien in Fee without License, and dies his heir within age, the King shall not have Ward, for that, that there is nothing descended to him, for the alienation is good; saving the trespass to the King, which is but Fine by Seisor.

1 H. 7. f. 5. If the Heir intrude upon the possession of the King, and levy a Fine; this is void by the Statute of *Prærog.* Chap. 13. Which is, where one intrudes there ariseth unto him no Freehold; but if the Heir levy a Fine without intrusion, that shall binde him and his heirs.

Time of H. 8. Tit. Alienation, 22. Tenant of the King in chief, cannot alien for term of life without license, for he alters the Freehold.

Magna Charta, chap. 4. If a Guardian by the Kings Grant, makes destruction or waste, he shall lose his Guardianship, &c.

Magna Charta, chap. 5. The Guardian shall keep up the Houses, Parks, Warrens, Stanks, Mills, &c. West. 1. chap. 11.

where a Tenant lets for years and dies, the Lord by Knights service in time past might have outed a Farmor, during the Nonage; but it is not so at this day.

IF the Tenant let for years and dies, his heir within age, the Guardian shall out the Farmor; yet he shall have Covenant against the Heir at his full age, for this Term which the Guardian hath during his Nonage, 34 Ed. 1. Tit. 120.

Guardian may out the Farmor, and yet at full age the Lessee shall have his term again, Britton, fol. 163.

It is held, That a Guardian may out the Farmor for years, but not the Farmor for life, 5 H. 7. f. 37. Fitzh. fol. 142. C. the same, 33 H. 6. f. 47. the same, and 14 H. 7. f. 24.

Guardian cannot out Tenant by *Elegit*, but he may out the Farmer, Statham, 1 Ed. 3. Tit. 13. 1 Ed. 3. fol. 103. by Sharde.

A Guardian may out the Farmer, and so may out him which hath Execution by a Statute-Merchant. Inquire of Tenant by *Elegit*, 33 H. 6. fol. 47. and 36 Ed. 3. Tit. that Guardian may out Tenant by Statute-Merchant.

Guardian in Knights service, cannot out the Termor, 36 H. 8. *Le se* 58. 35 H. 8. Tit. 85. the same.

It is granted by all the Justices, That the King shall not out the Farmer of his Tenant, by reason that the heir of his Tenant is in Ward, nor he which hath execution upon the Statute, nor Rent-charge granted by his Tenant, nor grant of next Advowson; time of H. 8. Tit. Ward, 44.

Now if the Term be not found in the Office for the King, yet the Farmor shall enjoy his Term, 2 Ed. 6. chap. 8.

Rastal,
Escheat
15.

Where there is Lord and Tenant, and the Tenant grants a Rent-charge, and dies, his Issue within age; the Lord being Guardian, shall hold this Land charged, 3 Book of Ass. 1.

Seisin.

Seisin.

Seisin of the Guardian, vests Freehold in the heir, and Chattels in the Guardian. And Seisin of the Lord of parcell sufficeth to have Ward, but not to avow for all; and see what Seisin is material.

W Here by Office one is found in Ward to the King, that settles the profits in the King, and the Freehold in the heir, 1 H. 7. fol. 6. & 42 Ed. 3. fol. 4.

Seisin of the Ward, is Seisin of the Son within age; so that if he die without other Seisin, the Daughter of the half blood shall not have this Land, 8 Book of Ass. 6.

Possession of the Guardian is possession of the heir; for if the Guardian be oured, the heir shall have Assise without the other Seisin, 2 Ed. 4. f. 5.

Though the Freehold be in him which is in Ward, yet if he (being in Ward) cut the Trees of his Land in Ward, the Lord may have Trespass against him, 1 H. 4. f. 2.

If the Tenant holds by Homage, Fealty, and Rent, and the Lord hath been seised of the Rent, but not of the Homage within memory, yet this sufficeth to have the Ward, 6 Ed. 6. Tit. Ward, 122.

If the Tenant hold by Rent and Knights Service, and the Lord and his Ancestors have been alwaies seised of the Rent, but not of the Homage, Escuage, nor of the Ward; yet if the Ward fall, the Lord shall have the Ward of the Heir by Seisin of the Rent, for the Seisin is not traverfable; notwithstanding otherwise it seems to make avowry, 7 Ed. 6. tit. 69.

13 H. 4. Seisin of Homage without Escuage, is sufficient to have relief for avowry.

22 Ed. 3. Tit. 90. Tenure B. By the Seisin of Escuage, the Lord may distrain and make avowry for homage.

27 H. 8. fol. 25. Avowry for Fealty and Rent, and issue upon the tenure, Seisin of the rent is not good evidence, nor Seisin of Suit of Court; for it is another thing that the Avowry is made for.

44 Ed.3. f.11. Seisin of Fealty, is not sufficient Seisin to have Assise of Rent, but sufficient Seisin to make Avowry for all, 45 Ed.3. f.23. the same.

Seisin of Escuage nor relief shall not be traversed; and for that, where one avows for homage, fealty, relief and escuage, it is no Plea, That he was not seised of Escuage, nor of relief; for peradventure escuage is not attested by Parliament within memory, 13 H.4. f.6.

Where one holds by Fealty and Rent, if the Lord were seised of the Rent, it is sufficient to avow for all. See 29 Ed.3. fol.31. and 27 H.8. f.24. But the Issue was upon the Tenure.

Where one holds by Fealty and Rent, Seisin of Fealty is sufficient to avow for all, 45 Ed.3. f.28. & 44 Ed.3. f.10. See 27 H.8. f.24.

Seisin of parcel of Rent, is sufficient to have Assise of all, 3 Book of Ass. 4.

But if one hold by Fealty and Rent, Seisin of Fealty is not sufficient to have an Assise of Rent, *Nat. Brev.* f.109.

If one hold by Fealty, and Rent, Seisin of Fealty is not sufficient to have an Assise of Rent, *Abridg. Book of Ass.* fol.16.

Seisin of Rent by the Predecessor of a Parson, &c. of a Corporation, if it be gainsaid to the Successor, is sufficient to have an Assise of this Seisin, *Fitzh.* fol.179. C.F.

Seisin of Fealty is not sufficient to have Assise of Rent, 20 H.3. Tit. *Avowry*, 433.

Where one holds by Fealty, and ten shillings, Seisin of parcell of the Rent, sufficeth to have Assise for all. Inquire time of Ed.1. Tit. *Avowry*, 229.

One may avow for a relief, without alledging any Seisin of it, 20 Ed.3. Title.

One may have Escheat and Ward before that he be seised of the Services, 11 H.4. f.16.

Where one avows for that, that the Plaintiff hath Common in his Land, and hath used to pay to him ten shillings, and hath used to distrain for that, it is not good without alledging Seisin of that Rent, 26 H.8. f.6.

Homage and Fealty.

And for that, that the third Article of the Charge is to enquire of Services withdrawn; and for that, that some Tenants make Homage and Fealty, and some Fealty only, you ought to see the form in Master Littleton, f. 18. and 19. of making of one and of another; and what shall be one, and what the other: and that none shall make Homage, nor take Homage, but such a one which hath an Estate in Fee-simple, or in Fee-tail, in his own right, or in right of another; and if a Woman having Lands in Fee, or in Tail, takes a Husband and have Issue, the Husband in the life of his wife shall make Homage: but before issue, it shall be made in both their Names; and if the wife die, the Husband shall not make Homage.

HOmage shall not be made to Tenant in Dower, for it shall be made to none, if he hath not Inheritance, 22 Ed. 3. f. 19.

7 H. 4. fol. 21. He which holds by Knights-Service, shall make Homage.

Lit. fol. 22. He that holds by Socage, may hold by homage, and shall make homage.

One cannot Avow upon a husband and a wife, as of right of the wife for homage, unless that the Husband hath Issue by the wife; but if he avow upon them, it need not be alledged, but it shall be intended that they have Issue: See 44 Ed. 3. f. 41. & 43 Ed. 3. f. 13.

Corporation cannot make Homage; for Corporation cannot appear but by Attorney, 33 H. 8. Title, Fealty, 15.

Bishop or Abbot may take homage; contrary of Parson of a Church: time of Ed. 1. Title, Fealty, 12.

In a *Per quæ servitia*, an Infant was constrained to atorn, and to make Fealty, notwithstanding his non-age, 20 Ed. 3. Tit. 19.

Tenant for years shall make Fealty to his Lessor, Lit. f. 29. D. 9 H. 6. f. 43. and 5 H. 7. f. 11, accordingly, where a Rent is reserved.

By all the Justices, That Tenant for years shall not make Fealty, for it is (as I believe) to be intended not to the Lord, but to the Lessor, 18 H. 6. f. 13.

It seems a Lessor may avow upon the Lessee for years, as within his Fee, by the Mannor, and for that shall make Fealty to his Lessor, and may avow for that, 40 Ed. 3. fol. 34.

If Rent of a Lessee for years be behind, the Lessor cannot avow upon the Termor, as of Tenant upon the Land, but upon the matter, 47 Ed. 3. f. the last.

21 H. 8. Tit. Fealty 8. In the Exchequer held, That if Land descend to me which is held of J. S. by homage, and I make to him homage; and after other Land descends to me by another Ancestor held of J. S. also by homage, I shall make Fealty, but not homage again, for I am become his man before: The same Law is, if both the Tenements are held of the King by homage, he shall not have two homages, but one homage only, 11. f. 29.

Tenant at Will by the Common Law, shall not make Fealty to the Lessor; but Tenant by Copy at will, according to the Custome of the Mannor, shall make Fealty to his Lord. *Lit.* in the end of the first book, and fol. 29, & 10 H. 6. f. 13. accordingly.

If there be Lord and Tenant, and the Tenant holds three Acres of the Lord by Fealty and Rent, and aliens all the three Acres, the Lord is not held to change his Avowry without notice, and to avow upon the Feoffee for Fealty and Rent; but if he will, he may: The same Law if he alien but one Acre; not that the Statute of *Westminster* the third is, that he shall hold for that particular, yet this is upon notice, 8 Ed. 4. f. 12. & 47 Ed. 3. fol. 4.

If the Tenant make a Feoffment, and there is no notice made to the Lord, and the Tenant dies, the Lord may distrain the Issue for Fealty and Rent, and avow upon him; for it sufficeth that he dies Tenant, though he doth not die seised of the Land, 44 Ed. 3. f. 13.

If the Tenant be disseised, and the Disseisor dyeth seised, the Lord there cannot distrain the Tenant for Fealty, but the Issue of the Disseisee, 32 H. 6. f. 31. & 34 H. 6. fol. 51.

If the Tenant hold by Fealty and Rent, if the Tenant make a Feoffment in Fee, the Lord may distrain the Beasts of the Feoffee for Fealty and Rent, and make Avowry upon the Feoffor till notice be given; and after notice given, he shall avow upon the Feoffee, if he tender the arrearages; otherwise not: for by the Feoffment and notice, he shall not lose the arrearages, but may distrain as above, and avow upon the Feoffor for the arrearages. But I intend, If the Lord accept Fealty of the Feoffee, he hath lost the arrearages, 47 Ed. 3. f. 4.

Note, That by the Statute of 21 H. 8. chap. 9. one may avow the taking in the Land if he will, as within his Fee and Lordship, as in Lands held of him, without avowing or justifying of any person certain.

Where one in Ward of the King holds of a common person also by homage or fealty, the Lord cannot distrain for homage or fealty, during the time that it is in the Kings hand, and yet the Seigniorie is not suspended, but only from distress, so that after he may distrain, 13 H. 7. fol. 16.

If Tenant in tail which holds by Fealty makes a Feoffment, yet the Donor cannot avow upon the Feoffee for Fealty; but if one recover against a Tenant in tail, the Donor ought to avow upon him which recovers for the fealty; and if there be Lord and Tenant, and the Tenant were disseised, and the Lord accepts the Rent of the Disseisor, yet that shall be but as a Bailiff to the Disseisee, and ought to avow upon the Disseisor; otherwise, I suppose, of fealty, 41 Ed. 3. f. 26.

If there be Lord and Tenant by Homage and Fealty, and the Tenant be disseised, and the Lord accept Homage of the Disseisor, he cannot avow for homage upon the Disseisee, Fitzh. 142, E.

Harriot.

For that, that divers Lords of Mannors have Harriots, and these are to be enquired for the Lord in Court-Baron, in the second Article of Charge; It is to be noted, That there are two manner of Harriots; that is to say, harriot custome, and harriot service; and for that harriot custome is properly, as it seems, after the death of the Tenant for life and for years, and of every Estate, and also is upon alienation.

IT is properly Harriot-custome, after the death of the Tenant for life, 8 H. 7. fol. 11.

To have a Harriot after the Death of every Tenant, that is to say, for life and for years, is a Harriot custome, 21 H. 7. f. 16. & f. 13. the same.

To have a Harriot after the death of the Tenant for life, is harriot-custome; for harriot service is after the death of the Tenant in Fee, 21 H. 7. Tit. 5. By.

Custome, that every Tenant of every Estate ought to pay Harriot after his death, is Harriot-custome, 14 H. 4. fol. 5.

Where the Lord is to have Harriot upon every Surrender, or upon every alienation, is harriot-custome, 3 H. 6. Tit. 8. B.

Note, That a Harriot custome may be due after death or alienation, as the custome will serve.

It seems, Harriot-service is properly after the death of Tenant in fee upon descent, and not upon every Estate, as before is said.

Harriot service is by reason of the Tenure, 8 H. 7. fol. 20.

Harriot service is by the Tenure, and if the Tenant alien the Land without notice, yet the Lord may distrain upon the Land for the Harriot, for it is by reason of the Tenure, and the Land is charged, 8 H. 7. f. 10. B. 6. that is by prescription.

Harriot service is after the death of the Tenant in Fee, and not of every Estate, 21 H. 7. f. 13. B. 5.

You

You shall see more for payment of Harriot service, titl^e
Discent before, and title Relief, after.

where a Harriot is certain, the Lord may seise that as Har-
riat custome ; And note, That for Harriot service he may
distrain : it seems, where it is certain to have the best
Beast, that he may seise.

THe Lord may seise as well for Harriot Service,
where he is to have the best Beast, as for Harriot
Custome.

But it is said in another place, That for Harriot Custome,
he shall alwayes seise and not distrain ; for the property is in
the Lord forthwith, 38 Ed. 3. fol. 7. Br. 2.

For Harriot Custome the Lord may seise ; and if it be
conveyed away, he shall have a (Detinue) and for Harriot-
service, if it be conveyed away, he may distrain ; time of
H. 8. Br. 6. Ductor and Student. f. 65.

The Lord hath property in Harriot-Custome, and may
seise that ; and for Harriot-service he may distrain, and
not seise, 8 H. 7. f. 10. Br. 7.

He cannot prescribe to distrain for Harriot Custome,
though that it be conveyed away, for that, that he may
have a Detinue, for the Law adjudges possession in him.
13 Ed. 3. Br. 9.

It is adjudged, that the Lord may seise Harriot service
as well as Harriot custome. See *Plewden's Commentaries*,
fol. 56. between *Woodland* and others, and 16 H. 7. f. 5.

It seems, where the Lord prescribes to have the best, he
may seise for that, that it is certain, 9 Ed. 3. Tit. But
enquire.

who shall pay Harriot, and who not ; and when it shall be
paid, and what remedy upon putting it away.

Issue in Avowry if he die his Tenant ; for the Lord shall
have Harriot, though that the Tenant do not die seised ;
for it is sufficient if he died his Tenant, though that he
did not die seised, 44 Ed. 3. fol. 13. Br. 1. and 7 H. 4.
fol. 17.

The

The Husband, and Wife, and their Son purchase Lands jointly harriorable; and the Husband dies, the Lord shall not have a *harriot* till after the death of the last of them, 24 Ed. 3. fol. 50. Br. 4. and Fitzh. 3. 25 Ed. 3. 7. and 19 R. 2. Tit. *Harriot* 5.

Where a man dies, seised of two houses harriorable, the Tenant shall pay two *Harriots*; and note there the prescription, that a Parson shall have the best *Mortuary*, and the Lord the second best; and if the Lord shall have the second best, was the Issue taken, 7 H. 6. fol. 26. Br. 3.

Beasts which are remaining within the Fee of the Lord, if they be removed out of the Lordship, the Lord may take them for *harriot*, where he is to have *harriot* after the death of every Tenant, 27 Book of Ass. 24.

If my Tenant which holds of me by a *harriot*, aliens parcel of his Land to another, every one of them shall pay *harriot*, for that, that it is intire, 34 Ed. 3. Fitzh. 3.

After the death of a Prior, *harriot* shall not be paid, for that he hath no property in the Beasts, 32 Ed. 2. Fitzh. 7.

If a Husband, Wife, and their Son, are seised for their lives, the Remainder to their said Son in Tail; after the death of the Husband, the Lord shall not have a *harriot* for he was not sole seised, 24 Ed. 3. Tit. 3. 19 R. 2. Tit. 5. the same; for it is said there, That if one do not die sole Tenant, there shall be no *harriot* paid.

Recordare longum: If the Lord purchase the tenancy held by *harriot* service, then the *harriot* is extinct by the unity of possession, for that, that it is service annexed to the Land; but I intend that it is otherwise of *harriot* custom, where the Lord grants over the Land, 14 H. 4. fol. 8. and 8 H. 7. 11.

Note, That *harriot* is due immediately after the death of the Tenant.

Trespas, The Defendant as Lord may justify taking of *harriot* within his Fee; or if the taking were out, it is good, and the conveying it out, is to no purpose, but that the Lord may seise *harriot* out of his Lordship; for it is not in case of the Statute, where the Lord distrains within his Fee for his services, 19 R. 2. Fitzh. 5.

The Lord may seise *harriot* (which is the best beast that his Tenant hath, which held of him by *harriot*), though they be in some place out of his Mannor, for that, that it is certain, 6 Ed. 3. Fitzh. 4. If

If one which holds by *harriot service*, to pay the best Beast, dies, and hath a Cow at the time of his death, which is the best; though that the Executors sell that, the Lord may seise that in the hands of him to whom she is sold, if the sale be not in an open Market, and not there, if without fraud, 18 Ed. 3. Fitzb. 2.

By the custom of some Mannor, and of most Mannors, the Lord shall have only one *harriot* upon the dying seised of his Copy-holder, and discent, and not upon every Surrender:

But by the Custom of some Mannor, *Harriot* is due upon every Surrender for life, in tail, or in Fee, as well as upon discent, and that in nature of a *harriot* custom at the Common Law; and by the Custom of divers Mannors, the Lord hath no *harriot* of some of his Tenants within the Mannor, and of some he hath.

The Lord may seise for *harriot* custom, the *harriot*; and is to seise that of the Goods of the dead, and for *harriot* service to distrain upon the Land.

If a Copy-holder of Inheritance of Lands *harriotable*, lying in extremity upon his Bed, Surrender into the hands of two Tenants to the use of his eldest Son in Fee, and dies before that Surrender be presented in the Court, the Lord shall have *harriot*; but if this Surrender had been presented in Court, and the eldest Son had been admitted accordingly; and after the Father had died, there the Lord shall have no *harriot*, unless it be *harriot* custom due to him only by custom upon every alteration, and exchange of Tenant for life and in fee.

The same Law is, If the Father, Copy-holder of *harriotable*, Surrender in the Lords Court to the use of himself for life, of the Son of his Daughter for life, and after to the use of the Son of his Daughter, and to the heirs of the Son, and they are admitted accordingly; and after the Father dies, the Lord shall not have *harriot*, unless it be *harriot* by custom, due upon every estate for life, in tail and fee, upon every Surrender which is due by the Custom; but in this case, if the *harriot* were due by the death of his Tenants, and descends to the heir only, then the Lord shall not have the *harriot*.

If the Father being a Copy-holder of Inheritance, or by the Custom, the Lord is to have *harriot* upon every discent only; and he lying in extremity, Surrenders into the

the hands of the Steward, to the use of the eldest Son and his Heirs, and dies, and after that Surrender [is presented in Court, and he is admitted accordingly; it seems, that that Lord there shall have a *harriot*.

But if the Father being Copy-holder of Inheritance, or by the Custom (the Lord having *harriot* upon every descent only) Surrender in full Court to the use of his eldest Son and his Heir, and the eldest Son is admitted accordingly; and after the Father dies, there the Lord shall have no *harriot*.

So it seems, if in this Case the Father Surrender to the use of himself for life, the Remainder to the use of his eldest Son and his Heirs, and they both are admitted accordingly; and after the Father dies, there the Lord shall not have *harriot*.

34 Ed. 3. *Statham*, If my Tenant which holds of me by a *harriot*, alien parcel of that Land to another, every of them is charged to me of a *harriot*, for that it is intire; and though the Tenant purchase the Land again, yet if I be seised of a *harriot* by another man, I shall have of him for every portion a *harriot*, and that by the Opinion of *Wilby* and *Sharde*.

4 Ed. 3. *Statham*, *Tit. Avowry*; one avows for *harriot*, Plaintiff demands Judgment, for that he doth not alledge Seisin of the *harriot*; and it seems of *harriot custom*, he need not to alledge seisin: but otherwise it is, of *harriot service*.

6 Ed. 3. *Statham*, *Tit. Avowry*: If one avow for *harriot custom*, he shall recite the custom in his Avowry.

24 Ed. *Statham*, *Tit. Avowry*: If one avow for *harriot*, and saith, that he and his Ancestors hath been seised time out of mind: yet he ought to alledge a special seisin in him, or in one of his Ancestors; and to say, By whose hand, &c.

38 Ed. 3. *Tit. 2. Br.* It seems, where the Tenant holds by *harriot service*; that is, if he be to have the best Beast, the Lord may seise as well as for *harriot custom*, for that it is certain; and for *harriot custom* he shall alwayes seise, and not distrain, for that, that the property is in the Lord, 27 Book of Ass. 24. 8 H. 7. fol.

13 Ed. 3. *Tit. 9. Brook*, For *harriot custom* he may have an Action against whosoever conveys it away, and a *Detinue*:

Detinke against him which denies it, for he hath property in the thing, and the Law adjudgeth possession in him without seisure, as of the Body of a Ward which is transitory.

Time of H. 8. for Harriot Custom a man always shall seise; and if it be conveyed away, he may have a *Detinuc*; and for Harriot service as here conveyed away, he may distrain, but not for Harriot custome.

3 H. 6. f. 45. Trespass, the Defendant prescribes in him and his Ancestors, Tenants of the Mannor of D, to have the best Beast for Harriot upon every Surrender, and the Horse taken was the best; the Plaintiff saith, That the property of the horse was not in the Tenant, time of the Surrender, and a good Plea.

Livery of Seisin.

For that, that you give in the second Article of Charge, to know what Estates your Tenants have, for that something shall be said afterwards, which is an Estate in Fee, and which in tail, and also of other Estates; and first, for that to Feoffments, Gifts, and Estates made in tail, and for life, by you to others, there ought to be Livery of Seisin; let us see what is good Livery upon the Land, and what within the view of the Land, and what not.

IF Livery be made, and the Termor for years be not outed, this is not good, 21 H. 7. fol. 7. 19 H. 6. 56. 2 Aff. 1. 5 Aff. the last, and 7 Aff. 3. and he to whom the Livery is made, stay a night with the Termor, and not out the Termor, yet this is not good, Britton, fol. 102. and 29 Aff. 60.

It Livery be made, and the Termor be not put out upon the Livery, or that he attorn, it is not good, 5 Book of Aff. 8.

If a Feoffment be of two Mannors, whereof one is in Lease for years, and the Livery is made in the other, which is not in Lease, this in Lease doth not passe, for there shall be Livery made in that also; or otherwise the Termor ought to attorn, 11 H. 4. f. 71.

To

To deliver a piece of Earth of the Land to him which takes the Seisin, is good Livery, 2 Book of Ass. 1.

The Sheriff may deliver Seisin of Rent recovered, by Beasts, Grass, or Clod, and it is good, 50 Ed. 3. fol. 22. Perkins, 42.

Office is granted in Forrest, to which Land is belonging, and Seisin is delivered by a Horn and an Ax, and is good, 1 H. 7. f. 17. *the old Print.*

A man makes a Feoffment to a Woman, and when he comes to the Church door to be married, he delivers to her the Deed, and there shews to her the Land, and is a good Livery, 39 Ed. 3. f. 11. & 38 Ass. 22.

Where one is sick in his house, and delivers the Deed of Feoffment in name of Seisin, it is good, Perk. fol. 48.

A Deed by (*I have given and granted*) or, *I have (given)* only, sufficeth to a Disseisor, if he deliver to him the Deed without other Livery, for it is a confirmation, Lit. 121.

One lying sick in his House, makes a Charter of that, and saith, *Take and keep according to the Charter*, and he takes Seisin, and the Feoffor be not out, and yet good; so it is in the same case, if he say, *Take Seisin*, and command all the Servants to attend on him, 27 Book of Ass. 61. Perkins, fol. 43, 44. & 43 Ass. 20.

There may be Livery within the view, as, *I deliver to the Feoffee a Deed of Feoffment, and I say, That I will that you shall enter into the same Lands, and have them according to the Deed*, it is good if you enter, Perkins, fol. 43. and 18 H. 6. f. 16.

The Father enfeoffs his youngest Son of a House, and the youngest Son comes into the Church or the same Town where the House is, and saith in the presence of the Parishioners, *Father, so Frankly as you have given to me the house, I give that to you*; and the Father goes to the house and enters, and dies seised, and is good; and the eldest Son shall have that, and not the youngest, 39 Ass. 12. Perkins, fol. 44. the same, and 42 Ed. 3. Feoffment, 54.

Note, *That it is notorious. and this is the reason.*

The Father makes a Feoffment, and a Letter of Attorney to L. to make Livery, and before the Deed delivered, commands

commands L. to make Livery upon condition, and he makes that upon condition, it is good, 28 Book of Ass. 439.

A man makes a Feoffment by Deed simply, but he delivers Seisin upon condition, the Feoffee takes it conditionally, and not by the Deed, 8 H. 5. fol. 8. 18 Ed. 3. fol. 19. and 18 Ed. 4. f. 12. *Littleton*, fol. 83.

The Father, for advancing his youngest Son, makes to him a Charter, and a Letter of Attorney when he was of sound memory, and after by sickness becometh mad, so that he was dumb at the time of the Seisin delivered; but by all sign agreed; and this is a good Livery, 25 Book of Ass. 4.

If a Lease be made for life by Deed, and the Lessor saith, *Go you and enter*, but no Livery is made, though that he enter, yet by *Newton*, he hath but an Estate at will, and no Freehold, 18 H. 6. f. 16.

When one makes a Feoffment, and delivers the Deed to the Feoffee, and sayes, *God give you joy*, this is good Livery, 41 Ed. 3. f. 17. *Abridg. Ass.* f. 94. and 41 Ass. 10. but it seems it was within the View.

Feoffment is good of Lands by Deed, and delivering the Deed within the View of the Land, so that the Feoffee enters accordingly; but if the Feoffor die before the Feoffee enter, then the Land descends, and the Feoffment shall take no effect: Time H. 8. B. *Feoffments*, 70.

A man makes a Feoffment to another, and delivers to him the Deed in the Land, or upon the Land, this is a good Feoffment by all the Court, 35 H. 8. *Brook*, *Feoffments*, 74.

Note, by these is to be gathered, That where the Feoffor delivers the Deed within sight of the Land to the Feoffee, and he enter; this is a good Livery and Seisin: But if he do not deliver the Deed within the View, nor use words within the View, which may countervail Livery, I suppose Freehold doth not pass.

If a Lease be made for life by Deed, and I deliver it out of the View, and no Livery of Seisin, then he is but Tenant at will, by *Newton*, as it is said before, 18 H. 6. fol. 16.

Note; where a Deed shall enure as a confirmation, without Livery of Seisin; where not.

A Lease for years is made, and after the Lessor makes a Deed by (*I have given, granted and confirmed*) to the Lessee, to him and his heirs, and delivers to him this Deed, this is good without Livery, 22 Ed. 4. fol. 37. and 19 H. 6. f. 44. the same.

If I let to one for years, and after make to him a Deed by (*I have given and granted*) to have the Land for life, or to him and to his Heirs, and deliver to him the Deed, he hath an Estate according to the Deed without Livery and Seisin; the same Law where a Disfeisee makes a Deed by (*I have given*) to the Disfeisor, and delivers to him the Deed, as before is said, *Lir. fol. 121.*

Feoffments to divers, and Livery to one, where both take, and where not; and where one make a Letter of Attorney by words, is not good.

A Man makes a Feoffment by Deed to twenty, and delivers the Deed and Seisin to one in the name of all, this is good to them all; but if he enfeoffs twenty without Deed, and delivers Seisin to one in the name of all, this is good to him only: Time of H. 8. *Br. Feoffment, 72.* 15 Ed. 4. f. 118. & 10 E. 4. f. 1. by *Choke.*

Tenant enfeoffs the Lord and another, and makes Livery to the other, nothing vests in the Lord without his agreement, 10 E. 4. f. 12. 6 E. 4. f. 4.

Where a Corporation and another are enfeoffed, Livery to one, is not good to both, for that, that they take in Common, and for that Livery shall be to both of them, 7 H. 7. f. 9. by *Hussey.*

Attorney by word cannot make Livery, 19 H. 8. fol. 9. by *Shelley and Engl. field.*

A man enfeoffs four by Deed, and one makes Letter of Attorney to J. S. to take Seisin for him and the rest, and he takes Seisin accordingly, the residue take nothing by the Seisin, 17 H. 8. *Br. Feoff. 67.*

Mordancester.

Mortdancester.

Many times Mortdancester is brought of Copyhold Land, and for that something shall be said of Mortdancester; and it seems, if the Tenant traverse one point of the Writ, the residue shall not be enquired. Contrary, by 9 Ed. 3. f. 30. Fitzh. Mortdancester, 13.

IF one takes issue upon the Point, and found against him, the residue shall be held confessed, 27 H. 8. f. 12. & 39 Afs. 13. But *Abridgment of Assise*, fol. 120; If the Tenant plead in Barr which is found against him, the Assise ought not to enquire of the Point at large.

Mortdancester, If the Tenant traverse one of the points of the Writ, as to say, that he is not next heir, & it is found for the Plaintiff, there he shall not inquire of other points; for when one point is traversed, all others are in manner acknowledged: otherwise it is, where he acknowledgeth no point, as pleading, that the Plaintiff is a Bastard; there they ought to enquire of the residue of the points, *Statham*, 35 E. 3.

If the Tenant traverse one of the points of the Writ, the remainder shall be held not gain said by *Sharde*, 14 E. 3. Tit. Fitzh. 8. 33 Ed. 3. Fitzh. 34. accordingly.

Abridgment of Assise, fol. 118. The points of the Writ are three; that is, First, if the Ancestor of the Demandant was seised in his Demesne, as of Fee, the day that he died. Secondly, If he died seised within fifty years last past. Thirdly, If the Demandant be next heir.

The Tenant saith, That the Ancestor of the Plaintiff did not die seised in Fee, and the Assise charged upon all the points, 9 Ed. 3. tit. 13. and 9 Book of Assises, 14. according, B. 21.

If the Tenant plead in Bar, without that, that the Father of the Demandant died seised; if that be found against him, the points of the Writ shall not be enquired; but if he plead to the Writ, it is otherwise, 27 H. 8. f. 12. by *Fitzherbert*.

Where the Tenant traverseth one of the points of the Writ; and the Assise is awarded, and found for the Plaintiff,

riff, he shall not enquire of the other points, but shall be taken confessed, *Abridgment, Book of Ass. fol. 118.*

If the Tenant pleads Feoffment or Surrender, he ought to traverse the dying seised.

IF the Tenant pleads matter in Deed, as Feoffment of the same Ancestor, they ought to traverse the dying seised; but if he plead Recovery, this is a Bar, unless the Tenant convey title afterwards, 6 Ed. 4. fol. 11. *Mortdancester, Natura Brevium, 119.*

By Thorp, Feoffment of the same Ancestor is no Plea in Bar, but to the Assise; for the Action is taken of dying seised after; that is to say, the day that he dyed, or not, 34 Book of Ass. 20.

Where there shall be a Re-summons, and where the Assise shall be awarded upon default, and the points shall be enquired.

THe Tenant was Effoined, and at the day made default, and Re-summons was awarded, & said, That it ought, 8 Book of Ass. 13. Inquire, *Fitzh. f. 196. G.*

The Tenant was effoined, and at the day made default, and adjudged, that the Assise shall be taken by his default, and that Re-summons shall not be but immediately after Summons, 4 H. 7. f. 23. & 4 Ed. 2. *Fitzh. 37.*

A man cannot recover by default in this Writ without inquiring of the points of the Writ, 31 Ed. 3. *Tr. 58. Abridgment Book of Ass. f. 119.*

The Tenant makes default by which re-summons went out, upon which he comes and pleads, and doth not answer to the default.

Where it is found against the Tenant upon Plea which trencheth to the Action, the points of the Writ shall not be inquired; otherwise it is, upon a Plea in abatement. See 39 Book of Ass. 33. & 29 Book of Ass. 48.

Mortdancester, If the Tenant plead non-tenure of parcel to the Writ, and if found, &c. and is ready to hear the Recognisance of the Assise, the points shall be inquired, 20 Book of Ass. 19. & 4 Ed. 2. f. 39.

Mortdancester.

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Mortdancester, the Tenant saith, That he is ready to bear Recognisance of Assise, the Points inquired, 12 Ed. 3. fol. 10.

If the Tenant plead Non-tenure of parcel, he ought to plead over to the Assise, that is, to pray that the Points be inquired, 12 Book of Ass. 8. and Abridgment Book of Ass. f. 122. See there.

where Mortdancester lieth.

IT lies for the Heir, where his Father, Mother, Brother, Sister, Uncle, Aunt, Nephew, or Niece, dieth seised of any Lands of an Estate in Fee, and an Estranger abates. there the Heir shall have a Mortdancester; and when his Father were seised and disseised the day that he dyed, yet it lies, *Fitzh. f. 195. C.D.*

If Tenant by the Curtesie alien, the Heir shall have Mortdancester, unless he hath Assets by him; and if a Guardian hold over, the Heir at full age shall have a Mortdancester, *Fitzh. f. 196. E.P.*

Mortdancester doth not lie upon Lands devisable by Will, and it is reason; for it is true, that the Ancestor was seised the day that he died, and that he died seised, and the Tenant is Heir in appearance, *Fitzh. f. 195. I. 4 Edw. 2. Fitzh. Mortdancester, 39.*

It is a good barr to plead devise of the same Ancestor, and so it seems where there is a devise now by the Statute of Wills, *Abridg. Book of Ass. f. 120. & 32 H. 8. Chap. 2.*

One Coparcener shall not have a Mortdancester against another, where their Ancestor died seised, and one enters in all, and holds out his companion, but (*Nuper Obiit*) and if the Ancestor die seised of an Estate tail, and one enter, and deforce the other, he shall have a Formedon, and not a Mortdancester, *Fitzh. f. 196. L.*

Mortmain,

For that, that by the 9. Art'cl, it is inquirable of Mortmain to the inteat that none shall give in Mortmain, but that the Lord may make his claim within the time limited in the Statute. Let us therefore see what is in alienation in Mortmain; and what not.

IF Villain of an Abbot, or of a Corporation purchase, and the Abbot of the Corporation enters, this is in Mortmain, and the Lord may enter within a year, 41 Ed. 3. f. 16. Fitzh. 224. B. Contrary of Land which descends to a Villain, 41 Ed. 3. 21, & 48 Ed. 3. 27.

If a Feoffment be made to the use of an Abbot, or a Corporation, this is Mortmain, and within the Statute, that the Lord may enter, 8 H. 4. f. 16. Br. 11.

If an Abbot, Mayor and Commonalty, Dean and Chapter, or other Corporation, alien to another Corporation, or Abbot without License, this is Mortmain, Fitzh. 212. D. The same Law if one exchange with an Abbot or Corporation, this is Mortmain, and the Lord may enter, Fitzh. f. 223. E.

Lord, Dean, and Chapter, or other Corporation, are Tenants, and the Lord releases to Dean and Chapter, or to the Corporation, his Rent without license, this is Mortmain: But if he be licensed of the King, and of the chief Lord, and (*Ad quod damnum*) be sued, or in the license of the King this Clause be, that is to say, without any Writ of (*Ad quod damnum*) then the Mortmain is not to be inquired in no case where such license is used, for that is dispensation, that the King and the Lord cannot enter for Mortmain. But if the Lord with license in this case aforesaid, be Tenant in tail, or for life, and dies, I think it is there inquirable, Fitzh. fol. 222. D. & 223. I.

But if the King grants to a Corporation liberty to purchase Lands and Tenements to the clear yearly value of 40 l: provided, that it be not held in chief, as divers Grants are: If such a Corporation purchase Lands and Tenements held of the King, as of his Mannor of East Greenwich, Depford, otherwise West Greenwich, Sayes Court, Lewsham,

Leviam Fee, or held of the Queen as of her other Mannors, there it is not inquirable of Mortmain; but it is to be inquired in the Leet, if they have purchased any Lands in chief, or over such a value in the Grant. And also it is to be inquired in Court-Baron for the Lord, If any Corporation have purchased any Lands or Tenements held of the Lords Mannor (notwithstanding the Grant, and License of the King aforesaid) for this shall not be to dispende against the Lord for Mortmain.

Where Annuity is granted to a Parson or a Vicar of a Church, or to a Prior or an Abbot, by any Tenant, it is no Mortmain to be inquired; for in Annuity if they recover, Collusion shall not be inquired, for that doth but charge the Parson of the Grantor, and not the Freehold, 10 Ed. 4. f. 6. 34 H. 6. f. 37. 3 Ed. 4. 14. 33 H. 6. 27. 20 H. 6 7. & 17 Ed. 3. 5.

But if any Tenant of the Lord grant by Deed out of his Lands, any Rent-Charge, with Clause of distress, to any Corporation, that is Mortmain, and inquirable.

The same Law is, If any Tenant will that a Corporation shall have to them and their Successors, a Rent-Charge issuing out of his Land, and will not that his person be charged in any manner by Writ of Annuity, but hath in the end of his Deed, Provided alwayes, that this present Writing, nor any thing in that specified, shall in no wise extend to charge my person by Writ or Action of Annuity, but only to charge my Lands and Tenements of the Yearly Rent aforesaid, this is Mortmain, and inquirable. The same Law is, If any Tenant of the Lord grant by Deed, that if the Dean and Chapter, Mayor and Commonalty, and their Successors, be not yearly paid at the Feast of Christmas, 20 s. that then it shall be lawfull for them to distrain for the same in the Mannor of D, this is Mortmain, and inquirable, Fitzh. fol. 30, proves this a good Grant. See Fitzh. 214. G.

But where personal things are given to a Corporation, as Horse, Cow, Ox, Sheep, Hogs, or other Goods, therein this case Mortmain is not to be inquired, for these so given, are not within the Statute, 10 H. 7. f. 3.

If a Bishop or an Abbot, appropriate to themselves an Adowson held of a Lord, of which there are seised in Fee without License, that is Mortmain, and inquirable. Fitzh.

f. 223. H. 8. 5 H. 7. f. 37. saith, *That an Advowson lyeth in Tenure*, 40 Ed. 3. t. 44. accordingly.

If a Fishing held of the Lord be granted by the Tenant to a Bishop and his Successors, or to Dean and Chapter, and their Successors, this is Mortmain, and inquirable, 40 Ed. 3. fol. 44. proves that it lyes in Tenure.

The Statute of Religious, fol. 79. is, *That no Religious, or other whatsoever, shall presume to buy or sell any Lands or Tenements, either und^r colour of Gift or Term, or by reason of any Title whatsoever, or by any means whatsoever, Art, or Wit presume to appropriate them to him, under the penalty of forfeiting the same, by which the Lands or Tenements may come into Mortmain, by any means.* And the Statute gives liberty to the next Lord (if he come within the year) to enter, and if he be negligent and do not enter, then the next Lord within half a year; and if not, then the King after the year and half may enter. And it is inquirable in the Court-Baron, for the benefit of the Lord, that he may enter within the year; and if the Lord be negligent, and do not take his time limited by the Statute, then the King may enter, and that is inquirable in Leet for the King.

25 H. 8. tit. 37. Lord and Tenant, the Tenant lets for life to J. S. the Remainder to an Abbot and his Successors, the Lord need not make claim till the Tenant for life be dead; for if he will waive the Remainder, it is no Mortmain.

Non-Tenure.

Inasmuch that you sue here Plaints for Copyholds, and make Protestation in nature of what Writ serves your Case, and many times Non-Tenure in them is pleaded, let us see where Non-Tenure is a Plea; where it is Plea of parcel, and where of all.

Non-tenure is no Plea in a (*Nuper obiit*); for it is to try privy of blood, 7 H. 6. f. 8. *Fitzh.* f. 197. D. and F. accordingly, but *Abbridgment*, *Aff.* f. 120. Non-tenure is a good Plea in Mortdancer.

If one plead Antient Demesne, he cannot afterwards plead Non-tenure, for none may plead Ancient Demesne but the Tenant, 41 Ed. 3. f. 22.

If one plead Non-tenure of parcel, he ought to shew that he is Tenant of that; but if he plead Non-tenure of all, otherwise it is, 8 Ed. 4. f. 6. 11 H. 4. f. 16. & 36 H. 6. 6.

Non-tenure is no plea in (*Scire facias*) to have Execution upon a Fine, 7 H. 4. fol. 12.

Generally Non-tenure is no plea in *Scire facias* to have Execution; for that, that nothing in that is demanded, but Execution is demanded only. But it seems one may plead special Non-tenure, as to say that he was Disseisor, and the Disseisee hath entred upon him, 7 H. 6. fol. 16.

Cessavit, and counts that the Tenant held a house of him by fealty and suit of Court, he may deny that he is no Tenant of the whole house, for he cannot tender the whole Arrearages without his companion, and goes in abatement of all. But Non-tenure of parcel in a (*Præcipe*) shall not abate for all, 21 Ed. 4. fol. 25.

Rast. Non-Tenure 1.

Non-tenure of parcel shall abate all the Writ, by the Common Law; and now by the Statute but for the parcel, 36 H. 6. f. 6. 18 Ed. 4. 41 Ed. 3. 20 & 4 Ed. 4. 33.

Littleton, s. 126. *Formedon*, If the Tenant plead Non-tenure, Judgment shall be that the Tenant shall go without day, and such Judgment the Demandant may enter.

26 H. 8. f. 3. *Attaint*, He which was party to the first Record, cannot plead Non-tenure, by *Hare*, but his Feoffee may.

21 H. 6. f. 62. *Attaint* against him which recovers, and the Petty-Jury, and he saith, *That he was not Tenant, day of the writ purchased*, and held good.

6 *Book of Ass.* *Attaint* against J.S. upon a Verdict which passed for J.S. in a Writ of Entry upon Disseisin, and notwithstanding that J.S. pleads as Tenant, yet for that, that he was not Tenant day of his *Attaint*, nor ever after, the writ shall abate by non-tenure, 14 *Book of Ass.* 2. *Attaint*, non-tenure was good; but it was pleaded there by the Heir, or other person against whom the recovery was.

Fitzh. f. 107. L. Attaint, Non-tenure hath been admitted a good plea divers times.

8 Ed. 4. 20. A man recovers in Court-Baron in right, and the other brings false Judgment, and recovers that, and in *Scire facias* to have Execution, he which first recovered, pleads

pleads special Non-tenure to stay Execution, and said, that he shall have it.

9 H. 5. f. 11. *Scire facias* to have Execution, if the Tenant pleads Non-tenure specially, that is, that he hath nothing but for years, the Plaintiff shall not have Execution at his peril.

Nuper Obiit.

Insonuch, that (Nuper Obiit) is a Plaint sometimes by Copyholder of that in Court-Baron, something shall be said of that; and where it lies, and where not,

IT appears, it lies where Land descends to Coparceners, and after the death of the Ancestor one enters into all, and deforceth the other; as where Grand-Father, Father, Brother, Uncle or other Ancestor die seised of an Estate in Fee; and after their death, one of their Heirs enters, and deforces the other Coparceners, here the Coparceners deforced shall have a (*Nuper Obiit*) against the other Coparcener which deforceth them. And if one Coparcener be deforced by the other Coparcener, and a stranger, she shall have a (*Nuper Obiit*) against her Coparcener, and this Joynt-Tenancy shall not abate the Writ. And this Writ lieth as well between Co-heirs in Gavelkind, as between women which are Coparceners, if one deforce the other, *Fitzh. f. 197. A. C.*

Nuper Obiit, lieth between sisters of the half-blood, 3 Ed. 1. Tit. 8. *Fitzh. f. 179. G.*

Nuper Obiit is maintainable, where her Ancestor was carried out of the same Tenements the day before his death, against his will, by the other Coparcener, and dies out of the same Tenements, 4 Ed. 2. Tit. 10. *Fitzh. 197. I.*

Nuper Obiit lyeth of a Corody, 16 Ed. 2. Tit. 11. 10 Aff. 11. Br. 3. *Fitzh. 179.*

If there be two Coparceners, and one of them marries a Villain, and the other deforce them, the Villain and his wife shall not have a *Nuper Obiit*, 16 Ed. 3. Tit. *Fitzh. 17.*

OFFICER.

Where your Officer or Sheriff shall be punished for executing of Process, as Trespassor, and where not; and how he ought to carry himself in executing Process.

Officer shall be punished in Trespass, that by (*Fieri facias*) out of any Court, breaks the Door of a House to do Execution; and for that only, and not for taking the Goods in Execution, 18 Ed. 4. fol. 4.

It is held, That an Officer cannot break the Close to make a *Replegiare* where there is a Gate, unless that be stopt; the same Law is of executing Process out of a Court-Baron, 21 H. 6. fol. 30.

Where one is indicted of Trespass, and *Capias* awarded, or a Commission to take the party indicted, and he shuts his Gates, there the Officer may break the Gates, unless he may otherwise come to take him, for this is for the King; otherwise it is, to execute Process of Court-Baron, 27 Book of Ass. 35.

Where erroneous Judgment is given in any Court, the Officer which doth the Execution is excused. Contrary where the Court gives Judgment of Land, or Contract which lieth out of their jurisdiction, for their Trespass or Assise lies against the Officer, 22 Ass. 64. *Plowden* 194.

There is also a diversity, where in Court-Baron Judgment is given, that is void or voidable; for where Judgment and execution is there, of a thing whereof they have no jurisdiction, there Trespass lies against the Officer for executing it; but if Judgment be there but erroneous, and so not void: false Judgment lies, and no Trespass against the Officer, *Plowd. Com.* 394. contrary Law.

Where an Officer by Commandment of a Bishop arrests one for holding an Opinion that he would not pay Tythes; false imprisonment lies.

The same Law where a Justice of Peace layes his Command upon one out of the Sessions, without other matter, and for that is imprisoned.

Where

Where one by a *Capias*, out of the Court-Baron, arrests one; false imprisonment lies against the Officers, 10 H. 7. fol. 17.

It seems, if the Sheriff arrests one by a *Capias* awarded against him out of the Common Bench, where there is no Original; yet false imprisonment doth not lie against him, 21 H. 7. fol. 22. and 11 H. 4. fol. 36. the same, by Hmk, in Case of an Abbot of Glassebury.

Held, That the Sheriff may arrest a *Verger* in the Church, or a secular man, and shall not be punished by *Trespass*. But by the Statute of 1 R. 2. chap. the last. See *Poult. tit. Arrests*: If any arrest any Minister, which is doing Divine Service in the Church, Church-Yard, or other place, he shall be imprisoned and punished, &c.

If an Officer distrain or attach the Horse of a Master, where the plaint is against the Servant: *Trespass* lies for the Master against the Officer, for the Officer ought to take notice at his peril, whose Goods he distrains or attaches, 13 H. 4. fol. 2. 14 H. 4. 24. 11 H. 4. 90. And *Doctor and Student* 139.

Where an Officer arrests another man, which is not Defendant, or attaches Goods which are not the Defendants, he is a *Trespassor*, if the Plaintiff shew him the party, or goods; and say, he is the Defendant, or not, 11 H. fol. 90.

It seems, that the Officer shall take notice at his peril whose Beasts he Replevies, 14 H. 4. fol. 24.

If the Officer distrain any Prior or other Prelate for Debt or *Trespass*, when he is in his Journey riding, by his Horse, upon which he rides, where he may distrain other Goods; Action upon the Case lies against the Officer, *Quare cum*, &c. *Fitzh. fol. 93. l.*

Where the Sheriff hath a *Capias*, he may arrest one without shewing it, and so may a Bayliff errant. But the Servant of a Sheriff, and of another, cannot without shewing the Warrant. The same Law is of a Bayliff of the Lord, or Beadle, which by custom serve Attachments or Distresses; they having a Command, may serve it without shewing it: but so cannot they do, where they a Command to Summon Copy-hold Land, or a Command in nature of Grand-capte, *Peti-capte*, *habere facias visum*, or *habere facias seisinam*, 14 H. 7. fol. 9. 21 H. 7. fol. 37. 8 Ed. 4. fol. 14. and 10 Ed. 4. fol. 1.

If the Sheriff arrest one by a *Capias*, and after do not return the Writ, or return (*Non est inventus*), false imprisonment lies against the Sheriff. But in Court-Baron no *Capias* shall be awarded; yet if the Officer there serve an Attachment or Distress, and do not return his Precept at the next Court, Trespass lies against the Officer for the Defendant, and an Action of the Case lies against him for the Plaintiff which sued the Action, for not returning of the Precept, 10 Ed. 4. fol. 18. 3 H. 7. fol. 3.

If the Servant of the Sheriff arrest one by Precept made out of a *Capias*, and return his Precept to the Sheriff; and yet the Sheriff do not return his *Capias*, false imprisonment lies against the Servant. But by the 18 of Ed. 4. fol. 9. it appears, that it is otherwise, where the Bayliff of the Liberty arrests one by precept out of a *Capias* made to him by the Sheriff, and returns his Precept, and the Sheriff do not return the *Capias*; there lies false Imprisonment against the Sheriff, and not against the Bayliff. But in Court-Baron, Bayliff or Beadle which have a precept of the Steward, cannot make Precepts out of that to serve, 21 H. 7. fol. 22. 20 H. 7. fol. 13.

One may arrest one in the presence of the Sheriff, which hath a *Capias* by his Commandment; and it is his arrest, without shewing his Precept: and Bayliff or Beadle of a Court-Baron may attach or distrain any thing without a Precept, in the presence of the Steward, & by his Commandment, 8 Ed. 4. f. 14. 21 H. 7. f. 23, 16 H. 7. f. 14. see there.

Bayliff or Beadle of Court-Baron distrain or serve Attachments; and the Defendant makes rescous, and chaseth the thing distrained or attached out of the Mannor, and the Officer freshly follows and takes it again, and brings it into the Mannor again, and may well do it, 33 H. 6. fol. 52. & 55. and 2 Ed. 4. fol. 6. according ly.

If a Serjeant at Mace arrest one, and he resists, he may beat him, and others (upon request) may aid him, 2 Ed. 4. fol. 6. B. and 3 H. 7. fol. 3.

By Hank, Officer cannot attach J. S. by my Goods which he hath to dung his Land, or to plough it, or which he hath in pawn, 11 H. 4. fol. 90. B. 31 H. 8. tit. 159. It is said, where one hath an Office of Charge, as to be Steward, Bayliff, Parker, &c. that the Grantor may out them, and pay their Fee, if it be so much certain, but not where they have profits of Court, &c. 34 H. 8. tit. 143. the same. 28 H. 8.

28 H. 8. tit. 94. Deprivation of an Office which lies in Grant ; ought to be by Deed, and not by Word.

5 Ed. 4. fol. 5. Long report, the A^{ct} of the Under-Sheriff, or his Deputy in the name of the Sheriff, shall charge the Sheriff ; and for their A^{ct} the Sheriff himself shall be amerced, and no other.

39 H. 6. fol. 35. The Opinion of the Justices was, That escape of a Prisoner is not a sufficient cause of Forfeiture of the Office of the Marshall, which hath Fee in that ; and held, that th^e Marshal might grant that to another for life but his Assignee cannot make a Deputy ; and the Opinion of the Justices, that not executing of an Office, is a sufficient cause of Seisure ; Deputy occupies to the use of the Officer ; and his Forfeiture or Misdemeanour shall make the Officer to lose his Office, but the Misdemeanor of the Grantee for life not, but of his own Estate.

11 Ed. 4. fol. 1. Duke, or Marshal in Fee, may make a Deputy ; for his Patent is to be executed by himself or his Deputy. The same Law of the Office of Chamberlain of the Exchequer, which is also an Office of trust ; for he keeps the Records of the King, so that an Office of trust cannot be granted over. If the Patentee hath it not, to him and his Assignes, he cannot make a Deputy ; and there agreed, That he hath that in his own right, and Deputy is not but to occupy into the Right of the Grantee ; See Perkins, fol. 21. E. F. G. 10 Ed. 4 fol. 16.

5 Ed. 4. fol. 27. Where an Annuity is granted to keep a Park ; if the Grantee misuse that, by which the Deer are killed, that is Forfeiture of his Office. Littleton, fol. 73. If a man grant by his Deed to another the Office of Parkership, Steward, Bayliff, &c. there is annexed to that a condition in Law, &c.

5 Ed. 4. fol. 10. The King grants to Garter the Office of the King of Arms at will, and 10 l. Fee, or term of his life for that Office ; if the Grantee be put from the Fee, the Office shall cease ; for the Cause ceasing, the effects shall cease, 7 Ed. 4. fol. 23. the same.

9 Ed. 4. fol. 5. If the King grant an Office to one which knows not how to use it ; it is said, that the Grant is void, and Justices may refuse him, 5 Ed. 4. tit. 48. the same.

9 Ed. 4. fol. 6. The King grants Office, the Patentee may make title in Assise, without shewing, that it was an Office

Office before: But if the Grant was with Vales and Fees, it is not good, unless there be words (*Constituimus*) if there were none before.

9 *Ed. 4. fol. 6.* If the King Grant the Office of one of the Clerks of the Crown to two, the Grant is good; but grant to two, to be chief Justice, is void, for it is a judicial Office.

18 *Ed. 4. fol. 8.* The King grants the Office of chief Promotary to two, that is void; and the Justices may refuse to enrol it: for two cannot have the keeping of the Rolls.

29 *H. 8. tit. 47.* If a man have a Fee of a Lord, and after is made a Justice, this Fee is not void; but after he is made Justice, he is not to take Fee of any but of the King. But where a Parson is made a Bishop, the Parsonage, is void; for he cannot be Ordinary to himself, nor punish himself.

3 *H. 7. fol. the last.* The King cannot grant the Reversion of an Office to J. S. by that name; but reciting how, that such a one shall have and hold such an Office for term of his life: *Of Our special Grace, We grant the Office aforesaid to J. S. to have after the death, &c.* See 32 *H. 8. chap. 27.*

9 *H. 7. tit. 44.* If the Warden of the Fleet do not bring in his Prisoner which is commanded by the Court, that is a cause of seising his Office. And if a Prisoner condemned escape, he is to pay the condemnation.

11 *Ed. 4. fol. 1.* By *Wavisor*, *Not Attendance* is a cause of Forfeiture of the Office.

Westm. 1. chap. 26. No Sheriff nor other Minister of the King shall not take reward to do his Office; and who doth, shall restore double to the Plaintiff, and shall make Fine to the King.

West. 2. chap. 29. No Servant, Accountant, nor other make any deceit or collusion in the Kings Court, or consent to make that in deceit of the Court, to wrong the Court or party; and if that be attainr, he shall have imprisonment for a year and a day, and be not heard in Court to count for none; and if there be another which counts, he shall be imprisoned a year and a day.

Fitzh. 172 O. No Victualler ought to use to sell Victual or Wine, by great, or retail, so long as he is in Office, as Mayor, &c. to keep the Assise of Bread and Wine.

Fitzh.

Fitzh. 173. A. Victualler shall not be chosen to Office of Judge, in Towns and Cities, but for default of others, and then they shall not sell Victuals. See of that divers Statutes.

¶ Process de Execution.

Johannes Kitchin Seneschallus, Ballivo ejusdem, Salutem. Quia Rob. B. recuperavit versus Will' E. xxxj. s. in placito debiti, & xij. d. pro mlsis & custagiis, unde prædictus W. in eadem curia convictus est per Judicium Curie: Ideo levare facias secundum consuetudinem prædictæ xxxj. s. in dicta Curia adjudicat, & dictos xj. d. pro mlsis, & denarios illos habeas ad proximam Curiam, ad reddendū prefat Rob. pro dampnis prædictis. Et habeas ibi hoc præceptum, & qualiter &c. Dat 24. die Aprilis, Anno regni dominæ Reg. &c. 21.

POUND OVERT.

For that, that in the 15 Article of the Charge, it is to be inquired, if any Distress put into the Lords Pound, be taken out without Authority: for that, let us see some things touching open Pounds.

Several Pasture of one is a Pound for the time, though it be not an open Pound; for that is adjoyning to the Kings High-way, which is called an open Pound; 5 H.7. fol. 9.

It a man distrain his Tenant in Fee for life, or years, for Rent, he cannot impound it in the same Land where he takes the Distress: but for Damage doing, he may, 21 H.7. fol. 39.

By Choke, if one take Beasts in the name of Distress, he ought to put them into an open Pound, for that, that he which is distrained, may give to them sustenance, otherwise he cannot give them meat: But if he distrain dead Chattels, I may put them where I will: but if they spoil in my default, I must answer for them, 9 Ed.4. fol. 2. B.

If Distress be taken out of the open Pound of the Lord of the Town; he which distrains shall have a (*Parco fracto*), and not the Lord; and the remedy for the Lord is Presentment in the Court-Baron, 21 Ed. 4. fol. 19. Fitzh. 100. G.

Where one distrains (doing Damage) or for Rent, or Service, and impounds them in the common Pound, or in another Pound or place; which is a lawful Pound, and another takes them out; he which distrains shall have a writ called (*Parco fracto*), of that taking out of the Pound. The same Law is, if they were impounded in a Close of his Friend, by his license, and are taken out, he which distrained shall have a (*Parco fracto*), and his Friend Trespass, why by force of Arms, he broke his Close, Fitzh. 100. E.

If Distress be put in open Pound, and they die, it is the loss of the Owner; but if they be put in another place, it is not so. And though sufficient amends be offered; yet he cannot take the Distress out of the Pound, but ought to sue a Replegiare: and then if it be found, that sufficient was rendered, he shall recover Damages for the refusal; but if the Distress die in an open Pound, though sufficient amends were offered; yet it is to the loss of the Owner, so that he ought to give them sustenance. *D.ctor and Student*, fol. 113.

If Distress taken, doing Damage, be put in a Pound; the Defendant may justify that he hath Common in the place where the taking was, and made fresh Suit, and came to the Pound, and there he found that unlockt, and took his Beasts; this is lawful upon fresh Suit, and being unlocked. So it seems in all Cases, where the Distress is taken without reasonable cause upon fresh Suit, and Pound unlocked, the Owner may take them out of the Pound, 30 Ed. 3. fol. 171.

3 H. fol. 15. Defendant in Replegiare may say, That he put the Beasts in open Pound, and there they died, and he shall not wage deliverance.

5 H. 7. fol. 9. If the Defendant in Replegiare take Beasts and drives them away, and doth not put them in an open Pound, and they die, this is not in default of the Plaintiff; but if he put them in an open pound within the County; it is not to be said, that they are conveyed away; but the Plaintiff at his peril is bound to take knowledge where they are, and to give them meat.

39 H. 8. tit. Distress 6. He which distrains Beasts, may put them in a close House, if he will give them meat; for, the putting them in open Pound, is but to the intent that the Owner may give them meat, 1 and 2 Phil. and Mar. chap. 12. tit. Distress, That no Distress shall be driven out of the Hundred, unless to the open Pound, nor above three miles; and one Distress shall not be impounded in several Pounds, upon Forfeiture of 5 l. And for Poundage of arintive Distresses, a man shall not take above 4 d. Poundage.

20 H. 7. fol. 1. Where the Lord distrains Beasts, and they are taken out of the Pound, the Lord shall have a (*Parco fracto*), and the party may have Trespass, for the property lies in him, by *Frowick*.

Fitzh. 101. Where a man distrains for doing Damage, Rent, or Service, and put them into the Common Pound, or into an other lawful Pound; and he which owes the Beasts, or another person, takes them out of the Pound, then he which distrained shall have a (*Parco fracto*); and if a man send his Servant to distrain for Rent or Service, and the Servant distrain and put them into the Pound, and a stranger takes them out of the Pound; now the Master shall have a (*Parco fracto*), for it is the Pound of the Master, 21 Ed. 3. fol. 19.

Fitzh. 101. H. If a man distrain for Rent, doing Damage, or Services, and puts the Beasts in the Ground or Close of another, his Friend, by his license; and he which owes them, takes out the Beasts; he which distrained shall have a (*Parco fracto*), and not he which hath the Close.

Fitzh. 101. H. For amercement in Hundred, one cannot distrain, but the proper Goods of him that is amerced, and not others; but for Rent or Service, it is otherwise, for the party may distrain the Beasts found in the Land which are rising and lying, and impound them.

Relief.

IF one have a Tenant in chief, and dies, &c. and after such Heir be in wardship, when he shall come to age, that is, 21 Years, he shall have his Inheritance without relief. But by

by the Statute of Marlebridge, chap. 10. and by the Prerogative of the King, the 3. chap. the King shall have the first seisin; nor the Heir shall not enter, before he hath received it out of the Kings hands, whatsoever age he be of, *Magna Charta*, 2, 3. & 4.

Where one holds of a common person by *Homage*, *Fealty*, and *Eſcuage*, and dies, his Heir male being within age of 21 years, he shall be in ward until 21 years; and if he were not in ward, but were of full age, that is, 21 years, then the Lord shall have 100 s. for a whole Fee for relief; and if he hold by a moyty 50 s; and so who by more, more; and who by less, less. *Lit. fol. 24.*

But by *Marlebridge*, chap. 17. If the Heir within Age be in ward, and at full age, the Lord will not suffer him to enter without Suit, but holds him out to have relief, or otherwise holds him out, that he cannot enter without Plea; he shall have a Mortdancerster against his Guardian; and recover his Damages. *Fitzh. fol. 196. F.*

If one holds of the Lord in *Socage*, that is, by *Fealty*, and 10 s. payable at a certain day, and dies, then the Lord shall have 10 s. for relief, over the 10 s. which he pays for his Rent; and such relief is due forthwith, of what age the Heir be; so that he pass the Age of 14 years: but if he hold by a *Rose*, that shall not be paid forthwith, but when the time of the year is that they grow. *Litt. fol. 28.* And this relief by *Bracton* and *Britton*, is not so properly to be called relief, as that which is paid at full Age by him that holds in *Chivalty*, 16 H. 7. fol. 4. and 18 Ed. 3. Tit. *Avowry* 99.

Note, when a man holds of the King in chief, and of other persons by *Knights-Service*, the King shall have the ward of all, and the Heir shall pay relief to every Lord at his full Age, 24 Ed. 3. fol. 8. and fol. 24. 39 Ed. 3. Tit. 1. the same: 26 H. 3. fol. 8. the same, and *Nat. brev. fol. 95.* notwithstanding. See *Stamf. Title Prerogatives*.

The Father dies seised, and the eldest Brother of full age dies before that he enters, and before that he hath possession in Deed; the youngest Brother being of full age, he shall pay two reliefs, one for the death of the Father, the other for the death of the Brother, for that, that both were Tenants to the Lord: time of Ed. 1. tit. 12 & 13 Ed. 3. tit. 6. the same.

If my Tenant enfeofs his Son and Heir of full age, and dies before the Son gives notice to me, I shall have relief of him; for that, that his Father died my Tenant, to the Avowry, 7 Ed. 3. chap. 11. 17 Ed. 3. fol. 3. Enquire, see 3 H. 6. fol. 47.

Where Land is given to the Father for life, the Remainder to his right Heirs, the which Tenements are held by Knights-Service; the Father dies, his Heir of full age, he shall pay relief, 32 Ed. 3. fol. 4.

Estate is made to the Father for life, the Remainder in tail to his eldest Son and his Wife, the Remainder to the right Heirs of the Father in Fee; the Father dies, the eldest Son and his Wife die without issue; the youngest Son is in by descent, and shall pay relief, 40 Ed. 3. fol. 9.

Gift is made to one in Tail, the Remainder to the right Heirs of J. S. which was dead; Donce dies without Issue, T. S. had that as right Heir, but is in as a Purchaser, and for that shall not pay relief, 12 Ed. 4. fol. 2.

A Lease for life, the Remainder to the right Heirs of J. S; Tenant for Lease dies, living J. S, the Remainder is void, and J. S. and his Heirs shall not be said in by descent to pay relief, 9 H. 6. fol. 23.

Lease for life, the Remainder to the right Heirs of J. S; and J. S. hath Issue T. S, and dies; T. S. shall pay no relief, for he is in as Purchaser, 11 H. 4. fol. 72.

Lease is made to one for life, the Remainder to another in tail, the Remainder over to J. S. in Fee; he in Remainder in tail dies, his Issue of full age, he shall pay no relief; for Tenant for life is Tenant: but when Tenant for life dies, he shall pay relief, 33 H. 6. fol. 5, 6.

Lord and Tenant, the Tenant lets for life, the Remainder in Fee to another; and he in Remainder dies, his Heir of full Age shall pay no relief; for the Tenant for life is Tenant to the Lord. Fitzh. 142. B.

Where an Estate is to the Husband and to his Wife, and to the Heirs of the Body of the Husband, the Remainder to the right Heirs of the Husband; the Husband hath Issue of full age, and dies, the Wife is Tenant to the Lord; and for that the Issue shall not pay relief when Tenant for life dies, he shall pay relief, 5 Ed. 4. fol. 10.

If the Heir of full Age recover in a (whilest he was *not compos mentis*, or in *Dum fuit infra aetatem*) or if his Father

Father had made a Feoffment upon condition; and he enters for the Condition broken, he shall pay relief, 11 H. 7. fol. 12.

Tenant in Fee-Farm upon discent shall pay no relief, for that, that his Rent is intended the very value of the Land, 45 Ed. 3. tit. 8. B. *Old Tenures*, the same.

20 H. 7. fol. 1. Debt lieth for relief by *Brud.* Debt (is said) lies by the Lord for relief; but it is held clear, that *Executors of the Lord shall have Debt for Relief*: So it seems one may have Debt for Relief, or distrain, 39 H. 6. and 32 H. 8. *Brook*, Relief 11.

Notwithstanding that by Will in writing, Lands are devised to another in Fee; yet the Lord may have relief and harriots, and may distrain for relief and harriot, as he may have done before the making of that Statute, and though this Statute never had been made, 32 H. 8. chap. 1.

Note, That Relief shall be paid to the Lord which hath an Estate in Fee, or in Tail, for Life, or for Years; for that it is a Perqui-sice, incident to the Lordship; and if the Lord dies, his Executors shall have the relief due to him.

The Tenant shall pay but once relief in his life time, and he shall not pay again by change of the Lord. *Britton*, fol. 177. and *Bracton* accordingly, and sayes, But once as long as the Heir lasteth, 34 Ed. 1. tit. *Avowry* 233. fol. 1. If the relief be due to the Lord, and the Lord dies, that shall be a Chattel to his Executors.

14 H. 4. fol. 8. If one be enfeoffed before the Statute to hold for a penny; for all Services, Exactions, and all Demands, yet relief shall be due, by *Shera*.

Magna Charta. chap. 2. If any holds of the King in chief, and owes us relief, he shall have his Inheritance by the old relief, that is, the heir or heirs of an Earl of a whole County by 100 l. the heir or heirs of a Baron of a whole Barony by 100 Marks, the heir or heirs of a Knight of a whole Knights Fee 100 s. at the most, and who less hath, shall give less, according to the old Custom of the Fee.

Magna Charta, chap. 3. After the heir be in ward, when he comes to age, that is 21 years, he shall have his Inheritance without relief.

By *Glanville* and by *Littleton*, for a whole Service of a Knight, he shall pay for relief 100 Shillings: and to that agrees the Statute of *Magna Charta*, chap. 2. and the Statute

is over the Heir or Heirs of an Earl of a whole Earldom 100 pound ; and *Lit. fol. 35.* saith, That Tenant by grand Serjeanty shall pay for relief the value of his Land for a year, beyond all reprises.

If any hold of any Escheat, as of the honour of *Wallingford, Nottingham, Bullen,* and other Escheats, which are in our hand, and are Baronies, and dies ; his Heir shall give no other relief then the Barons did, *Magna Charta, chap. 31.*

Note, that harriot-service is to be paid by the common law upon discent, as relief is to be paid upon discent ; and for that, where relief shall be paid, let us see where one shall be said in by discent, in the title of discent before.

Where Land is given to be held by homage, and having his Services, rendring yearly four Marks, for all Services and demands, yet relief shall be paid ; for relief is a thing which grows by reason of Services, and is incident, *18 E. 3. tit. Avowry 99.*

Bracton saith, He shall give relief, which succeeds by hereditary right, but not he that purchaserh.

All Purchasors are quit of relief, all their lives, of Land purchased, and also those which held only for life, and also those who have married Wives, which have been in ward to their Lords ; nor he which was in ward to the Lord, ought to pay relief, *Brit. 177.*

If Mesnalty discent to a Tenant, he shall pay the relief if he be of full age, and holds by Knights-Service ; and if within age, shall be in ward ; where a Reversion of Tenant for life discent to one, he shall pay relief : but otherwise it is, if one Tenant levy a fine to one and his Heirs, which dies before Entry ; and after the Heir of the Conisee hath execution by (*Scire facias*), he shall not pay relief ; so it is, if the Father recover in value or in Mortdancestor, and dies, and the Heir hath execution by *Scire facias*, shall not pay relief, *11 H. 7. fol. 12.*

No Feoffment upon collusion, nor use, shall defeat relief, nor any other Fraudulent gift, for they are uses executed, relief shall be paid as well as of Lands by the Statute, *19 H. 7. chap. 15.* and also by the Statute of *13 Eliz. chap. 5.* All fraudulent acts are void against their Lords, as touching their harriots and reliefs.

If there are two daughters, one within age, and in ward, and the other of full age, she shall pay relief for her part.

Abbot

Roll,
uses 7.
Rastall,
Fraud 1.
Covin.

Abbot nor Corporation shall not pay relief after the death of the Predecessor, for that, that they are in by election, and not by descent, and the Corporation doth not dye, 8 R.2. Tit. 14. But by that book, one by Prescription or Deed, may have relief after the death of every Abbot, or Prior, *Stattham*, 3 Ed. 3. Tit. 162.

Opinion is, that after receipt of Homage, a man cannot avow for relief. But *Glanville* and *Litt.* say, that it is due immediately after full age, that is, if they hold by Knights Service, and by *Litt.* if they held in Socage it is due forthwith, as before it is said, if he pass the age of fourteen years, 15 Ed. 3. Tit. 5. *Brinton*, fol. 178.

No relief be given before that the Lord be seised of his Homage, nor before that the Lord have delivered him the writings of his Heritage, if he have them, *Magna Charta*, chap. 3. The Lord shall not have the Custody, before he hath taken Homage, but the Law is contrary at this day; see Title Fealty, Br. 9.

Suit.

OF making Suit truly, &c. None that by Deed is infeoffed, &c. doth nor make Suit to Court, unless it be specified in the Deed, unless he and his Ancestors have used to make it, and if he be distrained to make it in another manner, it is against the form of the Feoffment, and where the writing is, to hold by certain service, for all services, as to hold by Fealty; for all services, shall make no suit, *Marlb.* cap. 9.

And over, If the Inheritance hath more Heirs, let it be appointed, that he that hath the eldest part, shall only make suit for himself, and partakers, and let them contribute; the same Law is of Joynt-Tenants, *Marlb.* cap. 9. *Fitzh.* 162. C.

Where two Coparceners make partition, and one aliens her part to one, and the other her part to another, the Lord may distrain which he pleaseth; but if one make the suit, that shall discharge the other, 24 Ed. 3. Tit. Br. 4.

By *Tremail* it is said, That Suit reall is due by reason of the Body, that is for that, that the body is resident within

the Precinct, and not by reason of Freehold, and this is due at the Courts Royal, as at the Courts of the King, or Queen, as at Leets and Wapontakes, which are the Courts of the King or Queen, and suit-Service is by reason of Freehold, that is, by reason of their Tenure, that is, for that they hold of their Lord by suit to his Court, 45 Ed. 3. f. 23.

If a man have Lands within the Precinct of divers Leets, and be resident within only one, he oweth suit but to that, and if he be distrained to come to another Leet, he shall have a special Writ that he shall not distrain him, and that is by *Marlbridge*, chap. 10. *Fitzh. f. 160. B.*

Ra. Ball,
County 2.

If there be three or four Coparceners, and the eldest makes the Suit, she shall have a *Contributio facienda*, against the others, to be Contributaries; the same Law is, where one Joynt-Tenant makes the suit for all agreement, *Fitzh. f. 162. C.* and *1 H. 4. f. 3. A.*

If there be two Coparceners, for which one Suit ought to be made, and the eldest Sister will not make the Suit, then the Lord may distrain the other Coparcener, as well as the eldest; and then she shall have a Writ against the eldest Sister, to compell her to make the suit, *Fitzh. f. 159. E.*

Fitzh. 159. C. If Lands descend to many Coparceners, of which one suit ought to be made, if the Land be held of the King, then all the Coparceners ought to make the suit, as well after partition, as before; during the time that one is in the Kings Ward, The Signiory is suspended of another Lord, which cannot distrain. And so during the time, cannot distrain for Suit to the Lords Court, *13 H. 7. f. 15. Fitzh. f. 158. C.*

Fitzh. 158. Where the Tenant holds his Land to make Suit to the County Court, or to the Hundred, or other Court. Baron, Wapontake, or Leet, and he that ought to make the Suit is in Ward to the King, or to his Committee, his Guardian shall have a Writ, *De exoneracione secke*, if he be distrained, *Fitzh. 157. a.*

And if he do, the King or the Committee shall have a Writ of *Exoneracione secke*, to surcease, *Fitz. 157. a. & 2 Ed. 6 chap. 8.* doth not alter the Common Law in this point for suit to the Court, *4 Ed. 4. f. 23.* and see *20 Book Ass. 17.* that the Signiory is suspended for the time.

Where

Where one is in ward of the King, and oweth suit to another Lord, which distrains him, the King or his Committee may have a writ of *Exoneracione scēte*, during the time that he is in ward. *Fitzh. 158. a.*

If the King hath Lands by Forfeiture, or by Escheat, and lets them for life, or at will, and the Lord of whom they are held will distrain for suit to his Court, the Lessee shall have a special writ to surcease. *Fitzh. fol. 159. a.*

If Lands held of the King, descends to many Coparceners; then all the Coparceners ought to make the Suit, as well after partition as before. *Fitzh. fol. 159. C.*

If Tenant of the King alien parcel of the Land held of him, yet the King or his Officers may distrain one of the Tenants for all the Rent; for though *West. 3. chap. 3. be*, That the Feoffee shall hold for that part, that Statute shall not bind the King; but another person cannot distrain, but for the rate. *Fitzh. fol. 335. a.*

But I say, if one hold two Acres by Suit of Court, and aliens one Acre, the Feoffor and Feoffee shall make both Suits, *43 Ed. 3. fol. 4. b.*

If two are severally infeoffed by one Tenant, which holds of one Mannor of the King, every of them shall make suit, *45 Ed. 3. tit. Bar. 211.*

Suit by two is not severable; for if the Lord purchase parcel, the whole suit is extinct by Mowbray, *40 Ed. 3. fol. 40.* See *Littleton, fol. 49.* for Suit cannot be apportioned, for that, that there cannot be contribution, for the Lord cannot, &c.

Where one holds forty Acres by Fealty and Rent, and the Lord purchase twenty Acres of that, the Rent in Assise shall be appointed, *4 Book of Ass. 53. Book of Ass. 18. Littleton, fol. 49.*

Time of Ed. 1. Tit. Avowry 216. Where ten Acres are held by Fealty and Rent, and these ten Acres come into several Hands, the Lord may distrain every one but for his portion, by *West. 3. chap. 3.* for that, there shall depart from the chief Lord that part of the service to be taken by the hands of the Feoffee, according to the quantity of the Land.

Rent-service shall be according to the value of the Land *Rastall,* purchased, and not according to the quantity, *18 E. 2. tit. Tenure 4.* Avowry 218.

Lord

Lord and Tenant, and is seized of two Courts, that is, one in D, and another in S; and the Tenant holds of the Mannor of D, by suit to this Court, and by agreement of the Lord, the Tenant makes his suit to the Mannor of S, after that the Tenant cannot have, against the form of the Feoffment, and disagree; but the Lord may disagree, and distrain him to come to his Court of D. again when he pleaseth, though it be, that he hath come to S, by the agreement by forty years or more, *Nat. brev.* 106. 3 Ed. 3. Tit. Action upon the Case 24.

Partition is between two Coparceners of a Mannor, that is, that one shall have the Demesnes, and the other the Services: Suit of Court is suspended; but if one dies without Issue, the Suit is revived, 12 H. 4. fol. 25.

If Land be held by Suit, and parcel of that comes to the Lord, the intire suit is extinct and determined; for the Lord cannot make contribution of Suit to his own Court, nor take that, 34 Aff. 15.

Rastall,
Attorney 1.

Every Freeman, freely may make an Attorney, to follow his Suits for him to his Lords Court. *Merta*, chap. 10. and *Fitzh.* fol. 156. E.

Contra formam Feoffamenti lies, Where a man in feoffs another before the Statute of (*Quia emptores terrarum*) or hold of him by Homage, Fealty, and Rent, by Deed; and after he will distrain for Suit or other Services to be made by him; and none shall have his Writ, but the Feoffee or his Heirs. *Fitzh.* 162. E. *Nat. brev.* fol. 106.

If the Lord confirm the Estate of his Tenant to hold by certain service, the Tenant shall have a (*contra formam feoffamenti*) upon this confirmation, 10 H. 3. tit. Avowry, 243. and 26 Ed. 3. tit. 246.

Note, as it is aforesaid, that Suit of Court is not incident to a Tenure, but is due by *Formam Chartæ*, or by prescription, as before the said Statutes; Lords are to distrain every Tenant to make suit to their Court, and that suit is called suit-service.

If a man seised of two Acres held by one Hauke, makes a Feoffment of one, the Feoffor shall hold by one Hauke, and the Feoffee by another, *Littleton*, fol. so shall it be of Suit of Court, *Brook Tenure* 64.

Tenant in Dower shall not make suit, if the heir have sufficient Land to be distrained, *Natura brevium*, fol. 159. B.

Tenant

Tenant in Fee.

It b. howeth, that the Steward shall have knowledge of all manner of Estates, because of making Surrenders of Copyholders, and also because of their Suits, Wards, Reliefs, and Services; for if the Steward do not know the Estates of the Tenants, how can he do justice? And for that something ought to be said of Estates; and first of an Estate in Fee.

VHere Lands are given to the Abbot of Battel, and his Covent, he hath Fee; for that, that they are a Corporation, and Corporation is intended to have continuance, 11 H. 4. fol. 84. Br. Inquire and see in the next Case.

Where Land is given to Mayor and Commonalty of London, they have Fee, without more saying, that is, without saying, To have to them and their Successors, 11 H. 7. fol. 12. Notwithstanding it seems, that Spiritual Corporation may die in some Case.

If I have Common in the Land of an Abbot, and I release to an Abbot, and not to him and his Successors, the Common is extinct but for the life of the Abbot, 26 H. 8. fol. 6.

Where Land is given to two, to have and to hold to them and heirs, and (Suis) is left out; they have but an Estate for life, and not Fee, 29 H. 6. fol. 73. and 20 H. 6. fol. 34. the same.

Devise to one for ever, or to him and his assigns for ever, he hath Fee, 19 H. 6. fol. 9.

Where a devise is to one without more, that is, is not said what estate is for life only, 22 Ed. 3.

Where a Devise is to one and his heirs Males, he hath Tail and not Fee, 27 H. 8. fol. 32.

If Land be given to one, to have and to hold to him and his heirs males, he hath Fee. Littleton, fol. 6. and 9 H. 6. fol. 25.

A man devises his Land to one, to give and sell, or to do with that at his will and pleasure, he hath Fee without more, 19 H. 8. fol. 9. and 7 Ed. 6. Tir. Devise 39.

If a man devise his Land to J. S. paying to J. D. a 100 l, J. S. hath Fee; but if he devise to J. S. without more, he hath but for life; and in the first case, if he do not pay that in his life-time, yet if his Heirs or Executors pay it, that sufficeth; therefore it seemeth, Payment is not a condition there, 29 H. 8. Tir. Testament, 18.

If Lands are given to an Abbot or Prior, to have to him and to his Heirs, yet he hath not an Estate but for life, for that, that his Heirs cannot inherit; otherwise it is, where Land is given to a Bishop, or Parson, and his heirs, for they have Fee, 94 H. 5. f. 9.

If Lands be given to B. for life, the remainder to C. in tail, the remainder to the right Heirs of B, the Fee is vested in B, if C. die without Issue in the life of B. as well as if the remainder were given to him and to his right Heirs, and the right heir of B. shall be in by descent, if C. dye without Issue, and not as a Purchaser, 18 Ed. 2. Tir. 109.

If Tenant in Fee bargain and sell his Land by Deed, Indent and inroll within six Moneths to another, though it be not to have to him and his Heirs, he hath in Fee, 27 H. 8. f. 6. and fol. 10. 32 H. 8. Tir. Conscience, the twenty fifth, the same.

If Lands be given to J. S. to have to him in Fee-simple, yet he hath no Fee but for life, 20 H. 6. fol. 36.

But if Land be given to one to have to him and his Heir so long as such a Tree grows, hath Fee determinable, 27 H. 6. 29. B.

If a man lets Land to J. S. to have and to hold, to him and his Heirs for Term of the life of J. D; he hath Fee determinable; for if J. S. die, living he for whose life, the Heir of the Lessee may enter, and not a stranger as Occupans, Litt. fol. 136. 8 H. 4. f. 14. you shall see the same, 21 H. 8. Tir. Estates, 50. and inquire.

If a man devises Lands to J. S. paying ten pounds to his Executors, and dies; J. S. hath Fee by reason of the payment, without words, Heirs. The same Law is, If one sell his Land to J. S. without words, Heirs, he hath Fee, 4 Ed. 6. Tir. Estates, 78.

Lease was made for eleven years, and for security of that, made a Writing, That if he were disturbed, he should have Fee; and Livery was made, and hath Fee upon

upon disturbance, 10 Book of Ass. 15. 10 Ed. 3. Tir. Ass. 161. the same.

Lease is made to one for twenty years, and the Writing expresseth over, that after the twenty years, that the Lessee & his heirs shall hold it for ever, paying ten pounds, and Livery is made, he hath Fee forthwith; for if the Lessor takes a Wife within the twenty years, and dies, she shall recover Dower by award of the Court, 31 Ed. 3. Tit. Feoffments, 119.

If a man lets for nine years upon condition, That if the Lessee be disturbed within the Term, that the Lessee shall have Fee; if the Farmer alien before disturbance, this is disseisin to the Lessor; for the Fee is not in the Lessee before the condition broken, 43 Book of Ass. 41.

If Lands be granted to one for five years upon condition, That if he shall pay to the Grantor within the first two years forty Marks, that then he shall have Fee; or otherwise but for five years, and the Livery and Seisin is made, he hath Fee forthwith upon condition, Littleton, 81. See 24 H.8. fol. 25. Diversity where the Condition is precedent, and where subsequent.

The Lord Lovel lett to W. for life, and if the Lessor died without Issue of his body, W. should have Fee, the Fee is not forthwith in W. Plowden, fol. 481.

Land is given to the husband and his wife in special tail, the remainder in Fee to the husband, which deviseth the Fee to his Wife, and dies without issue, the wife is seised in Fee, 27 Book of Ass. 60. Litt. fol. 31. B.

If a Woman be seised in Fee, and deviseth that to her husband and his heirs, and dies, he hath no Fee, Natura Brevium, fol. 88. 3 Ed. 3. Itin. Northampton, 33 Ass. the same, 18 Ed. 4. fol. 11. b.

18 H.8. tit. Patentees, 104. The King gives Land to J.S, and to his Heirs males; adjudged, That the Grant is void, for that, that the King is deceived in his Grant, for this sounds in Fee-simple; whereas it is said, The King intended but an Estate tail, which is not so expressed: And therefore now he is but Tenant at will; and contrary in the case of a Common person: For Littleton, fol. 6. saith, Lands are given to another, to have and to hold to him and his heirs Males, or to his heirs Females, he to whom the gift is made, hath Fee in a Common persons case;

case, for that there is no limitation in the Gift, of what body,

6 H.7. fol. 13. If Office be granted to one for life, and after the King grants that to another, and doth not recite the first Grant, the King is deceived; and it seems that the second Grant is void.

1 H.7. fol. 13. Where the King of meer motion, forgave A.B. of all his debts, and was Sheriff; and after in the Exchequer he pleads that as Sheriff, and held for that, that it is of his own motion, and is general, yet he may plead that, and it is a good Bar: Otherwise it is, where it is by suggestion, for where it is of meer motion, it is intended the King is not deceived; but it seems, if the King pardon one all his debts, he as an Executor shall not take advantage of that. The same Law is, if two be indebted, and the King pardon one, the other shall not take advantage of that, for it was the only debt of him.

9 H.7. fol. 2. Where a Grant of the King is of his meer motion, and the King recites, That where he hath granted by his Patent, he ratifies and confirms, and over, (*We give and grant*) this (*give and grant*) is not, but void; for the King is Estopped to say the contrary; but that he granted and ratified that: but if it were, as *we are informed*, he is not Estopped, and the King there is deceived. And where it is of his meer motion, recited that he holds for life, he is Estopped to say contrary; but if it were, as *we are informed*, he is not Estopped, and the King is deceived, if he holds not for life.

3 H.8. fol. Held, Where a Grant of the King is not only of his meer motion, but also of suggestion, there if any part of the suggestion be not true, the whole Grant is void.

8 H.7. fol. 1. Where the King upon Information of the party, grants a Mannor which he hath by forfeiture, and hath not that by forfeiture, it is void, for he is deceived: So it is said, Where the King grants reversion, where there is no reversion, he is deceived, and void.

27 H.8. Tit. Patents, 100. It is said for Law, That a false consideration in Letters Patents, shall not avoid them; as where the King, for ten pounds to him paid, gave such Land, and the ten pounds is not paid, the Patent is not void; and shall not be repealed. Contrary, of Patent granted

granted upon false surmise, as to falsifie that the Land came to the King by the attainder of J. S; which is not true, or such like.

36 H. 8. fol. 1. If the King grants Lands to J. S, and recites, For good service he hath done; he grants, and it is not true, yet the Grant is good, though the consideration is false.

27 H. 8. fol. 33. by 6 H. 8. fol. 15. Will, That the second Patent of an Office shall be void, where another Patent is made before, during the Will of the King: If mention and recital be not made in the second Patent, of the first Patent made at the Will of the King; if the Officer hath Fee, it is void: otherwise it is, if he have no Fee, as it seems, 3 H. 7. fol. the last: 6 H. 7. fol. 13. the same.

Where the Remainder in Fee depends upon determination of Estate, and where upon Condition; and how upon Contingent.

Husband and his Wife seised in right of his Wife in tail; the husband enfeoffs other two so long as J. S. and seven other persons live together; and if it happen any of them to die, that then the remainder to the husband and his wife, and to the heirs of the wife, and J. S. dies, and the husband and the wife enter, as they may, for the remainder depends upon determination of Estate, and not upon Condition, for death is certain, and for that the Estate is determined, 18 H. 8. fol. 3.

18 Ed. 3. fol. 2. A Fine was levied to the husband and his wife, and to their heirs Males, of their two bodies begotten; so that if the husband dyed without heir Male, that that should remain to the right Heirs of the husband, and is received, for that doth not depend upon condition, but upon a limitation upon contingent of death, which is certain.

27 H. 8. fol. 18. A Fine upon grant and render, by which the Conisee grants and renders to the Conisor, the Lands in tail, upon condition, That the Conisor and his Heirs shall carry the Standard of the Conisee in Battell; and if the Conisor or his Heirs fail, that then that shall remain

to a stranger; this depends upon a condition; and by *Fitzherbert*, Fine cannot be taken upon a condition; but if it be taken, it is good. And by *Fitzherbert*, the Fee is in the stranger forthwith, before the Tenant for life dies, otherwise it takes no effect; for these words (*that then it shall remain*) refer to the possession of the Lands; that is, That then the possession of the Land, after the death of the Tenant for life, should remain; but if one let for life upon condition, that if he die, &c. the remainder to a stranger, that is in him presently.

Plowdens Commentaries, fol. 487. *Nichols Case*; If a Lease be made upon condition, That if the Lessee pay certain Monies within the Term, that he shall have it in Fee; he hath no Fee forthwith, but upon the payment; but it seems this varies from the remainder.

If a man make a Lease for life upon condition, That if the Lessor die without Issue, then the Lessee shall have Fee; the Lessee enters into Religion, and after the Lessor dies without Issue, and after the Lessee is drawn out of Religion, he shall not have Fee; insomuch, that at the time of the condition, the Fee could not vest in him.

21 H.7. fol. 11. Gift is in tail upon condition, That if he alien in Fee, that his Estate shall cease, and that this shall remain to a stranger, it is not good; for an Estate of Inheritance cannot cease; also it cannot remain without particular Estate; and it cannot be upon a condition repugnant.

where your Tenant hath the Fee in him in expectancy, and not executed in him; and where it is executed in him.

A Lease to the Father for life, the remainder to the eldest Son in tail, the remainder to the right Heirs of the Father; the Father dyes, and the eldest Son dies without issue, the youngest Son shall pay relief, and the Fee was but in expectancy, 40 Ed.3. fol.9.

A Gift to three Brothers for life, the remainder to the middlemost in tail, the remainder to the right heirs of the elder in Fee; the middlemost and the youngest die with-

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out Issue, the Fee is executed in the eldest, 40 Ed.3. fol. 10.

Tenant for life, the remainder to J.S. in tail, the remainder to the right heirs of the Tenant for life; the Tenant for life is impleaded, and hath aid of him in remainder, for that, that the Fee is in expectancy, 41 Ed.3. fol. 16.

Lease for life, the remainder in tail, the remainder to the Tenant for life in Fee; yet, if he make waste, he shall be punished in waste, for that he hath the Fee in expectancy, but not executed, Fitzh. fol. 60. B.

Gift in tail, the remainder to his right Heirs in Fee; this remainder is not executed, yet it is in him to grant; Perkins, fol. 19. 12 Ed. the same; and 7 H.5. fol. 2. the same.

Where one hath an Estate in tail, the remainder to his right Heirs, and is attaint of Felony, he shall forfeit the Fee, but Issue hath the Estate tail, 12 H. 4. fol. 3. But by the Statute of 5 Ed.6. chap. 12. and 26 H.8. ch. 13. One attaint of High Treason against the Queen, the Issue shall not have the Land intailed, 7 H.8. f.48. Fitzh. fol. 30. B.

*Rastals
Treason
12, 19.*

Tenant in Tail.

Land is given to R. and Katherine, and to their Heirs, and to the other Heirs of the said R: If the said Heirs of the said R. and K. issuing, dye without Heir of them, it is an Estate tail, 5 H.5. fol.6. Perk. fol. 35. a.

L And was given to one and to his heirs, if he have issue of his body begotten; and if not, that the Land should return, it is an Estate tail, 35 Book of Ass. 14.

Land is given to one to hold to him and his Heirs, if he have an Heir of his own flesh; and if not, it should return; it is an Estate tail, 37 Ass. 15.

Land is given to one, to have to him and the heirs of his Body, and to one heir of the said heir only, it is an Estate tail for two Descents at least, Plowdens Comment. fol. 39. Book of Ass. 20.

Gift to the brother and to his sister, and to the heirs of their two bodies begotten, is an Estate tail, that is, several tails, 18 Ed.3. f.39. and 17 Ed.3. f.51.

Land is given to a married man, and to a woman married to another man, and to the heirs of their bodies begotten, they have an Estate tail presently, 15 H. 7. fol. 10.

If Lands be given to one, to have and to hold to him and his heirs; and if it happen that he die without heir of his body, then it shall remain, &c. It is an Estate tail, 5 H.5. f.6. and 19 H.6. f.75. the same.

Land is given to the husband, and to his heirs of the body of *Margaret* his wife begotten, though that *Margaret* were dead at the time of the gift, it is an Estate tail, 12 H.4. f.2. *Litt.* f.6.

Land was given to the husband and his wife, and to their heirs, saving the reversion; it is an Estate tail, 9 Ed.3. *Statham.*

Lands were given to *Maude*, late the wife of *John Mandevile*, and to the heirs of the said *John* which he begot of the body of the said wife, the wife hath an Estate for life, the issue an Estate tail, 2 E.37. & 17 E.2. *Tit. Fitzh.* 23. Tail 7. and 23.

Where Lands were given to one and his heirs, of his body begotten, before the Statute of *Westm.* 2. he had Fee conditional, and after issue had, had power to alien, and now by the Statute they have tail, *Lit.* f.3. 12 Ed.4. f.3. 19 Ed.3. *tit.* 61. & 18. 18 Book of Ass. 5. the same.

A man gives to the husband and his wife for their lives, and the longest liver of them, the remainder to the heirs of their body, this is a good intail executed immediately, 35 H.8. *Brook*, Estates, 75.

Lands are given in Frank-marriage, to have to them and to their heirs, it is said, that they have Fee; but if it were given to them in tail, to have to them and to their heirs, they have tail and fee expectant, 45 Ed.3. f.20. & 32 Ed. 1. there *Fitzh.* Tail, 25. it is adjudged tail.

If Lands be given to a man and his wife in Frank-marriage, to have to him and to his heirs, they have tail, for the Frank-marrying shall not be defeated by these words afterwards, 31 Ed.1. *Tit.* 25.

Lands are given in Frankmarriage, the remainder over

to a stranger; and for that it cannot be an acquitall, it shall be called special intail, 31 Ed. 3. Tit. *Gard.* 116. and 17 Ed. 3. *Tail* 2.

Gift to one in tail, the remainder to his right heirs, he hath Tail and Fee expectant, 7 H. 5. fol. 2.

Lease is made for life, the remainder to another in tail, the remainder to E. Daughter of the Earl of *Arundell*, in tail, saving the Reversion, and all dye, and E. is heir to the Donor, and hath tail as Purchasor, but she hath Fee expectant, and she shall have aid; but not age if she be within age, for that, that the Fee is but in expectancy, 40 Ed. 3. fol. 13.

24 H. 8. Tit. 33. Tenant in tail hath Issue, and aliens with warranty, and leaves Asssets and dies, the Issue cannot recover by Formedon, for the Warranty and Asssets is a Bar; and if the Issue alien the Asssets, his Issue shall not have Formedon; but his Issue shall have a Formedon, for no Asssets descend to him.

35 H. 8. Tit. 39. Land is given in tail to the King, and after the King by his Patent lets for years, or for life, and hath Issue and dyes, the Patent is void, for it is no discontinuance, Tit. *Discent.* 35. for a Grant without Livery doth not make discontinuance.

32 H. 8. If Tenant in tail lets for years, and dies without Issue, the Lease is void, and he in remainder may enter.

5 Ed. 4. f. 2. Tenant in tail shall not have a (*Quo Jure*) nor (*Ne injuste vexes*) for they are Writs of Right.

14 Ed. 4. fol. 6. If one recover in a Writ of Right against Tenant in tail, of a Rent, he hath Fee till he be defeated.

The same Law if Tenant in tail be disseised, the Disseisor hath Fee till he be defeated, and so hath the Discontinuee.

39 Ed. 3. Tit. 18. Tenant in tail of a Lordship, by default of Entry within a year after the alienation, of the Land in Mortmain, may prejudice him in remainder in tail, and by consequence his Issue.

Fitzherbert, 124. Tenant in tail shall have a (*Quod permittat*); *Fitzherbert*, 136. shall have a Writ of *Melne*. *Fitzherbert*, 151. O. shall have a Writ of *Customes and Services* in the *Debet* and *Solet*. *Fitzherbert*, 134. C. shall

not have a Writ of (*Rationabilibus divisis*) which is a Writ of Right.

Fitzh. 10. D. The Issue in tail shall not be estopped by Seisin of more Rent in the time of his Father, and for that he shall not have a (*Ne injuste vexes*) but may avoid that in Avowry.

Fitzh. fol. 9. If Tenant in tail hath Issue two Daughters, and one enters in all, the other shall have a Formedon, and not (*Nuper obiit*) nor (*Rationabili parte.*)

Fitzh. 39. If Tenant in Fee of an Advowson be disturbed, he shall have a Writ of Right of Advowson: But Tenant in tail of advowson if he be disturbed, shall have a *Quare Impedit*, and not a Right of Advowson.

Fitzh. 105. S. If Tenant in tail be barred in a Formedon by false Verdict, and after releases and dies, his Heir shall have Attaint.

Fitzh. 158. L. The Issue in tail shall have Detinue against the Discontinuee for the Deed, by which the Land was given in tail.

Fitzh. 155. If Tenant in tail lose by default, and dies without Issue, he shall not have *Quod ei deinceps*, but a Formedon.

7 H. 4. fol. 48. Tenant in tail before the Statute had Fee conditional, and now by the Statute hath tail; and for that shall not forfeit for Treason nor for Felony, but that the Issue shall inherit: but by the Statute now he shall forfeit for Treason, *Nat. Brev. fol. 102.* If Tenant in tail be attaint for Felony, his Issue shall inherit.

12 H. 4. f. 3. If Tenant in tail forfeit his Land, his Issue shall inherit, and yet his Wife shall not be endowed: By Hank.

Litt. fol. 11. If a man be seised of Land, and commits Felony, and after aliens, and after is attaint, his Wife shall have a Writ of Dower against the Feoffee; by *Visitor*: But if it be escheated to the King or Lord, he shall have no Writ of Dower. See 8 Ed. 3. contrary in the like case, *Nat. Brevium, fol. 101.* If Tenant in tail commit Felony, for which he is attaint, the King shall have Escheat for his life.

5 & 6 Ed. 6. cap. 11. Where the husband commits high-Treason, the wife shall not be received to demand her Dower.

Perkins, fol. 61. If Tenant in general tail takes a Wife, and have Issue by the same Wife, and the husband is attainted of Felony and dyes, his wife shall not be endowed; and yet by the Statute of *Westm. 1. chap. 1.* the Issue shall inherit.

Stamf. fol. 194. By the Common-Law, the Offender in Felony or Treason, shall forfeit the Title that his Wife shall have by the Marriage to be endowed of the Land. But by the Statute of *1 Ed. 6. chap. 12.* though any person be attainted, convicted, or outlawed of any misprision of Treason, Murder, or Felony, yet their Wives shall be endowed. But by *5 & 6 Ed. 8. chap. 11.* it is otherwise of Treason, as afore is said. See *5 Eliz. chap. 1. & chap. 11. 18 Eliz. chap. 1.* for certain Treasons.

19 Ed. 2. tit. 61. Fitzh. Before the Statute of *Westm. 1.* after Issue had, Tenant in tail hath power to alien, but not before Issue had.

4 Ed. 3. Tit. 22. Fitzh. Land given in special tail to have to them in Fee; and if they die without Issue of their body, that the Land shall revert, &c. this is judged a special intail.

24 Ed. 3. Tit. 4. Fitzh. If Lands be given to two husbands and their wives, and to the heirs of their bodies begotten, it is held clearly, That this is a several intail, that their Issues shall have several Actions.

Littleton. f. 52. If Lands be given to two men, and to their heirs of their two bodies begotten, the Donees have joynt-Estate for their two Lives, and yet have several inheritances, that the Issue of one shall have one half, and the Issue of the other the other half, *8 Book of Ass. 33.* the same.

30 Book of Assise. 9. by Shard. If the Ancestor at one time was seised of an Estate tail, and after purchaseth in Fee, and after charges the Land and dies, and his Issue enters, he shall hold it discharged.

18 Ed. 2. Tit. 856. Lands given to one, and the heirs of his body to be begotten, is a good intail, and the Issue before as after shall inherit.

4 Ed. 2. Tit. 22. Lands given to the husband and his wife, and to the heirs of their bodies, to have to them and their heirs; and if they die without heirs of their body, that the Land shall revert; and adjudged a special intail.

2 Ed. 4. fol. 6. Land is given in tail to be held of the

chief Lords, it is a void (*Tenendum*) and shall hold of the Giver, 3 Book or Aff. 8. 4 H. 6. fol. 19.

27 H. 8. f. 31. If Tenant of the King makes a Gift in tail without license, the King may choofe the Giver or he to whom it is given, for his Tenant; but if he take the ward of one, he shall not have the other.

5 H. 4. f. 3. Where Lands was given to *Eme*, to have to the said *Eme*, and the Heirs of the body of *John*, late her Husband, the remainder to the right heirs of *Eme*; and for that the heirs of *John* were not named before the *habendum*, he hath nothing, but *Eme* hath an intail, &c.

12 H. 4. fol. 2. Where Lands was given to *M*, and to the heirs of the body of *Eliz.* late his Wife begotten, and though *Eliz.* was dead at the time of the Gift, yet this is a good intail, that *W.* the Issue of *J. M.* of the body of *Eliz.* shall inherit.

Littleton, 6. If a man have Issue a Son, and dies, and Land is given to the Son, and to the heirs of the body of his Father begotten, this is a good intail, and yet the Father was dead at the time of the Gift.

What Acts by Tenant in tail, shall bind his Issue and others; and what not.

Rastall,
Recoveries
4.

TENANT in tail, the Reversion to the King, makes a Feoffment, and dies, his Issue enters, and is Tenant in tail, for he cannot discontinue; 34 H. 8. chap. 20. if he suffer Common Recovery, or Voucher, where the Reversion is in the King, this shall not binde the Issue, 40 Aff. 36.

Rastall,
Proclam. 3.

Fine levied by Tenant in tail in possession, reversion, remainder, or in use, of full age, with Proclamation according to the Statute of 4 H. 7. chap. 12. immediately after the Fine levied and ingrossed, and Proclamations made, shall be a Bar against the Tenant in tail, and also against his heirs claiming the tail. But if Tenant in tail, the reversion in the King, levy such a Fine, this is in such force and effect, as it was before the making of this Statute, and not otherwise, 32 H. 8. chap. 36. See 30 H. 8. Tit. Bar the 97. Assurance. 6.

Rastall,
Fines 9.

Tenant in tail is bound in a Recognisance, and Execution is sued by *Elegit*, & this Land entailed, is delivered in Execution, and the Tenant in tail dies; after that his issue may

may enter, notwithstanding this Act, without suing *Audita Querela*, 38 Book of Assises, 5.

Tenant in tail grants a Rent-charge, and dies; the issue enters, and enfeoffs J.S, and takes back an Estate, the charge is determined; for by the Entry of the Issue, the Rent was extinct, notwithstanding Execution upon the Statute was executed against the Feoffee of the Tenant in tail, and not against his Issue, 14 Book of Assises, 4. Inquire and see the Case of *Traps*, *Plow. Com. f. 436.*

5 H.7. f. 12. Rent-Charge is granted by Tenant in tail, and after he dies, this is determined.

If Issue in tail be outlawed of Felony in the life-time of his Father, and hath a Charter of Pardon in the life-time of his Father, & after the Father dies, the Issue may enter; otherwise it is, if the Charter were granted after the death of the Father; for then if he enter, the King shall seize for his life, but his Issue may enter, 29 Book of Assises, 60.

If Tenant in tail be bound in a Statute-Merchant, and hath Issue and dies, and is sued against the Issue, this is disseisin to him, 17 Book of Ass. 21.

If Tenant in tail grant a Rent-Charge, and dies, the Rent is determined, and shall not binde the Issue, 5 H. 7. fol. 14. B.

38 Ed. 3. tit. 13. Tenant in tail charges the Land, enters into a Statute of Recognizance, and dies, it shall be void against the Issue.

If one recover against the Tenant in tail, and the Tenant in tail dies before he which recovers enters, or hath Execution, the Issue in tail may enter, and is not bound by that, 7 H. 4. f. 17. B. *Littleton*, f. 153.

Tenant in tail of a Reversion, acknowledgeth that by Fine to one with Warranty, and dies, yet this shall not bind his Issue, for it is no discontinuance by the Common Law, 9 Ed. 4. f. 19. But by 32 H 8. chap. 36. this Fine with proclamation is now a bar after the year.

Tenant in tail of Rent, grants that to one with warranty, and dies, this shall not binde the Issue, for it is no discontinuance, but at pleasure; that is, if he bring a *Formedon*, and then warranty with Assents is a Bar, 15 Ed. 4. fol. 6. 21 H. 7. f. 10. & 13 H. 7. f. 10. the same.

If the Tenant in tail exchange, or devise his Land in tail, and dies, this shall not bind the Issue, but that he may

may enter, for it is no Discontinuance, 9 Ed. 4. f. 22.

Tenant in tail grants a Rent-charge for release of right in the Land, this shall bind his Issue after his death, 44 Ed. 3. f. 22. 8 H. 6. 23.

If Tenant in tail be Attaint of Felony, and dyes, that shall not bind the Issue, but that he may enter by the Common-Law, 12 H. 4. f. 3. Nat. Brev. f. 102. the same.

Tenant in tail of full age, lets for 21 years according to the Statute of 32 H. 8. chap. 28. reserving the ancient rent or more, and uyes, this is a good Lease, and shall bind the Issue.

If Tenant in tail let for 22 years and dyes, this shall not bind his Issue, but he may enter and out the Lessee; but yet he may have Covenant against the Executors of Tenant in tail, though it were not warranted by the Indenture; 48 Ed. 3. fol. 2. 18 Ed. 3. tit. 13. the same.

If the Father Tenant in tail of Land suffers recovery, and Execution and dyes, or cause collateral Warranty to be made, one or other shall bind the Issue untill, &c. for it is Discontinuance, 3 H. 7. f. 13.

The Issue in tail in Formedon may falsify a recovery, by default had against his Father, and also where it is by tainted Action, as there was a Release made to his Father not pleaded, and so recovery joynt, *1 Littleton* fol. 155.

The Issue in tail is not bound by a recovery against his Father, but that he may say, that his Father discontinued, and took another intail, and so was seized of another intail, then he demanded time of the recovery, 12 Ed. 4. f. 25. & 13 Ed. 4. f. 1. the same.

The Issue in tail is not bound by a recovery against his Father, if his Father were not Tenant, but one J. S. 14 Ed. 4. fol. 2. and see *Plowd. Com.* fol. 1. the Case of *Mansel*.

If Tenant in tail in feoffis one against whom a (*Præcipe quod reddat*) is brought, or an *Entry in the Post*, and he voucheth the Tenant in tail which made the Feoffment, and he over the Common Voucher, this double voucher is the most sure Conveyance to bar the Issue, by reason of the reconipence in value, and this is the common Conveyance at this day, where there is an Estate tail, and this bars the Issue intail forthwith, and also is a Bar to him, which hath over that in Remainder in tail, by reason of the reconipence,

compence, which the first tenant in tail hath by his voucher, 13 Ed. 4. fol. 1. and 27 H. 8. tit. Recovery in value 28.

Recovery upon Voucher against tenant in tail, is a Bar, by reason of the recompence in value, and recovery by Writ of Entry in the Post, by single Voucher, doth but give the Estate which the Tenant in tail hath in possession at the time of the recovery; so that if he were in of another Estate then in tail, there the tail is not bound against the Heir, 23 H. 8. tit. 32.

Note, that a Fine levied by Tenant in tail, where the Remainder is to another in tail with Proclamations, if he die without Issue, he in Remainder hath five years to make his claim; and for that recovery is better, for it is a Bar forthwith, 30 H. 8. tit. Recovery in value 30.

Of Lands in tail, the Issue in tail shall be bound, and charged of these Lands to the payment of Debt which his Ancestors ought by obligation made to the King, as I take it, 33 H. 8. chap. 39. Inquire.

Lands that a woman holds in Dower of her Husbands, shall be charged where the Husband was indebted to the King, if the heirs or executors have not sufficient; but where the title of Dower was before the Debt to the King, otherwise it is, Fitzb. fol. 150. Q.

It seems, that the heir in tail, shall be charged for Debt due in the Exchequer to the King, by his Father, if the Executors have not sufficient, Fitzb. fol. 117. C.

Notwithstanding, if Tenant in tail, Debtor of the King in the Exchequer, die, his Issue shall not be charged, as it is held in Plowd. Comment. fol. 249. See there 440. For Debt of the King against the Heir in Fee, 32 H. 8. Tit. Discent. 32. Recovery against the Tenant in tail, the Reversion or Remainder in the King in Fee, shall bind the Tenant in tail, and the Issue in tail, but shall not bind the King, but now by the Statute of 35 H. 8. chap. 20. It shall not bind the Issue in tail, but that he may enter. See M. 33 H. 8. tit. 31. Recovery in value, Seek, if the Statute of 34 & 35 H. 8. provides for any Issues in tail, but only the Issues of the Donees of the King, for the Preamble speaks only of those; but the Statute is, whereof the Reversion or Remainder is in the King, and for that it seems every Issue in tail, where the Reversion or Remainder is in the King may enter; but if a Fine with Proclamation, by

by such Tenant in Tail, the Reversion or Remainder in the King, seems is not remedied by this Statute, but by 32 Hen. 8. chap. 36. where Reversion is in the King, is no discontinuance; for though the Heir in Tail shall be barred by Fine with Proclamation, after Proclamation made, yet there is an exception in the Statute, of those whereof Reversion or Remainder is in the King, so that it shall not bind such Issue in Tail, Title Assurance 6. See 4 H. 7. chap. 24.

37 H. 8. Where Tenant in tail is attaint of Treason before the Statute of 26 H. 8. his Son shall have the Land; for he doth not claim only as Heir, but by the Statute; and by the form of the Gift: see the Statute of 5 and 6 Ed. 6. Chap. 11. That for High-treason, Tenant in tail shall Forfeit his Lands, Com. fol. 237.

27 H. 8 fol. 6. If Tenant in tail sell Trees, and dies, and after he that hath bought them, cuts them, Trespass lies; but if they be cut in his life time, it seems the Buyer may take them.

18 Ed. 3. tit. Disseisin 92. Where Tenant in tail is bound in a Statute, and dies, and his Issue enters; and the Conisee outs him by Execution, which is an Act of Law, he is a Disseisor.

Plowd. Com. fol. 235. Before the Statute of Westm. 2. he had but an Estate of Inheritance, and that was Fee; but this was in two manners, absolute and conditional, and Formedon in Reverter was at the Common Law, and Formedon in Remainder by the Statute.

1 H. 4. fol. 6. If Tenant in tail by Estoppel, or Livery suing, holds of the King, and dies, his Issue shall not be Estopped.

43 Ed. 3. fol. 14. Presentment to an Advowson in the life of the Tenant in tail, puts him during his life out of possession, but not his Issue.

38 Ass. 5. Tenant in tail is bound in Recognisance, and Execution is sued by Elegit, and this Land delivered in Execution; and after the Tenant in tail dies, his Issue may enter without suing Audita querela.

17 Ass. 21. If Tenant in tail be bound in a Statute, and hath Issue, and dies, and after Execution is sued against the Issue; this is disseisin to him, and he shall have Assise, though he comes in by Process by Law,

24 *Ass.* 3. It seems, if Tenant in tail be bound in a Statute, and dies, and after his Issue enfeoffs J. S, that the Co-nisee may have Execution against the Feoffee.

35 *H.8. fol.* 38. If the King gives in tail by his Letters Patents, and after the Donee Surrenders the Letters Patents to the King, the tail by this is not extinct.

38 *H.8. tit.* 39. Land is given in tail to the King, he is Tenant in tail, and cannot have greater estate then the giver will depart to him; and if the King lett for ye ars, or for life, or make a Feoffment in Fee, and hath Issue, and dies, the Issue may enter, for this is no discontinuance.

Tenant in Frank-marriage.

Gift was to the Husband and his Wife in Frank-marriage, and this may be as well after the Marriage as before, 4 *Ed.3. title Tail* 6. *Perkins, fol.* 48. C.

If a Gift be made with a Wman in Frank-marriage, which is not Cozen to the Giver; this is but for life, *Old Tenures.*

Gift in Frank-marriage, with the Son of the Giver, his Cozen is no Frank-marriage, time of *H. 8. tit.* 10. But *Fitzh. fol.* 172. *H. and 7 E. 4. fol.* 12. *A. by Moil* in the *Prior of Spaldings Case*, seems contrary.

Gift in Frank-marriage, (within the years in marriage) with a Daughter, and they were divorced at full Age, at the Suit of the Husband; yet the Daughter shall have all, for she was the cause of the Gift, 19 *Book of Assises* 2. 19 *Ed.* 3. *Title Assise* 83.

If a Gift be to the Husband and his Wife in Tail, and they are divorced, it seems that they have not now but a Free-hold; and though that they have Issue before the Divorce, that shall not inherit: but if a Gift in tail be made to two men, or to one man and his Mother, or Daughter, and to the Heirs of their Bodies, their several Heirs of their Bodies shall inherit, for that they cannot marry, 7 *H. 4. fol.* 16. and 17 *Ed. 3. fol.* 51. and *Title Tail* the 15. this is where the Divorce defeats the Marriage from the beginning.

Gift in Frank-marriage, rendring twenty shillings Rent; this reservation is void, 4 *H.6. fol.* 12. by *Martin*: But the

may enter, for it is no Discontinuance, 9 Ed. 4. f. 22.

Tenant in tail grants a Rent-charge for release of right in the Land, this shall bind his Issue after his death, 44 Ed. 3. f. 22. 8 H. 6. 23.

If Tenant in tail be Attaint of Felony, and dyes, that shall not bind the Issue, but that he may enter by the Common-Law, 12 H. 4. f. 3. *Nat. Brev. f. 102.* the same.

Tenant in tail of full age, lets for 21 years according to the Statute of 32 H. 8. chap. 28. reserving the ancient rent or more, and dyes, this is a good Lease, and shall bind the Issue.

If Tenant in tail let for 22 years and dyes, this shall not bind his Issue, but he may enter and out the Lessee; but yet he may have Covenant against the Executors of Tenant in tail, though it were not warranted by the Indenture; 48 Ed. 3. fol. 2. 18 Ed. 3. tit. 13. the same.

If the Father Tenant in tail of Land suffers recovery, and Execution and dyes, or cause collateral Warranty to be made, one or other shall bind the Issue untill, &c. for it is Discontinuance, 3 H. 7. f. 13.

The Issue in tail in Formedon may falsify a recovery, by default had against his Father, and also where it is by tainted Action, as there was a Release made to his Father not pleaded, and so recovery joynr, *1 Littleton fol. 155.*

The Issue in tail is not bound by a recovery against his Father, but that he may say, that his Father discontinued, and took another intail, and so was seized of another intail, then he demanded time of the recovery, 12 Ed. 4. f. 25. & 13 Ed. 4. f. 1. the same.

The Issue in tail is not bound by a recovery against his Father, if his Father were not Tenant, but one J. S. 14 Ed. 4. fol. 2. and see *Plowd. Com. fol. 1.* the Case of *Manfel.*

If Tenant in tail infeoffs one against whom a (*Præcipe quod reddat*) is brought, or an *Entry in the Post*, and he voucheth the Tenant in tail which made the Feoffment, and he over the Common Vouchee, this double voucher is the most sure Conveyance to bar the Issue, by reason of the recompence in value, and this is the common Conveyance at this day, where there is an Estate tail, and this bars the Issue in tail forthwith, and also is a Bar to him, which hath over that in Remainder in tail, by reason of the recompence,

compence, which the first tenant in tail hath by his voucher, 13 Ed. 4 fol. 1. and 27 H. 8. tit. *Recovery in value* 28.

Recovery upon Voucher against tenant in tail, is a Bar, by reason of the recompence in value, and recovery by Writ of Entry in the Post, by single Voucher, doth but give the Estate which the Tenant in tail hath in possession at the time of the recovery; so that if he were in of another Estate then in tail, there the tail is not bound against the Heir, 23 H. 8. tit. 32.

Note, that a Fine levied by Tenant in tail, where the Remainder is to another in tail with Proclamations, if he die without Issue, he in Remainder hath five years to make his claim; and for that recovery is better, for it is a Bar forthwith, 30 H. 8. tit. *Recovery in value* 30.

Of Lands in tail, the Issue in tail shall be bound, and charged of these Lands to the payment of Debt which his Ancestors ought by obligation made to the King, as I take it, 33 H. 8. chap. 39. Inquire.

Lands that a woman holds in Dower of her Husbands, shall be charged where the Husband was indebted to the King, if the heirs or executors have not sufficient; but where the title of Dower was before the Debt to the King, otherwise it is, *Fitzh. fol. 150. Q.*

It seems, that the heir in tail, shall be charged for Debt due in the Exchequer to the King, by his Father, if the Executors have not sufficient, *Fitzh. fol. 117. C.*

Notwithstanding, if Tenant in tail, Debtor of the King in the Exchequer, die, his Issue shall not be charged, as it is held in *Plowd. Comment. fol. 249.* See there 440. For Debt of the King against the Heir in Fee, 32 H. 8. Tit. *Discent.* 32. Recovery against the Tenant in tail, the Reversion or Remainder in the King in Fee, shall bind the Tenant in tail, and the Issue in tail, but shall not bind the King, but now by the Statute of 35 H. 8. chap. 20. It shall not bind the Issue in tail, but that he may enter. See *M.* 33 H. 8. tit. 31. Recovery in value, Seek, if the Statute of 34 & 35 H. 8. provides for any Issues in tail, but only ere Issues of the Donees of the King, for the Preamble speaks only of those; but the Statute is, whereof the Reversion of Remainder is in the King, and for that it seems every Issue in tail, where the Reversion or Remainder is in the King may enter; but if a Fine with Proclamation,
by

by such Tenant in Tail, the Reversion or Remainder in the King, seems is not remedied by this Statute, but by 32 Hen. 8. chap. 36. where Reversion is in the King, is no discontinuance; for though the Heir in Tail shall be barred by Fine with Proclamation, after Proclamation made, yet there is an exception in the Statute, of those whereof Reversion or Remainder is in the King, so that it shall not bind such Issue in Tail, *Title Assurance* 6. See 4 H. 7. chap. 24.

37 H. 8. Where Tenant in tail is attaint of Treason before the Statute of 26 H. 8. his Son shall have the Land; for he doth not claim only as Heir, but by the Statute; and by the form of the Gift: see the Statute of 5 and 6 Ed. 6. Chap. 11. That for High treason, Tenant in tail shall Forfeit his Lands, *Com. fol. 237.*

27 H. 8. fol. 6. If Tenant in tail sell Trees, and dies, and after he that hath bought them, cuts them, Trespass lies; but if they be cut in his life time, it seems the Buyer may take them.

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38 Aff. 5. Tenant in tail is bound in Recognisance, and Execution is sued by *Elegit*, and this Land delivered in Execution; and after the Tenant in tail dies, his Issue may enter without suing *Audita querela*.

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Gift in Frank-marriage, rendring twenty shillings Rent; this reservation is void, 4 *H.6. fol.* 12. by *Martin*: But the

the Old Tenure is contrary, *Tit. Frank-marriage*, and *Ed. 3. fol. 66.* also contrary.

If a Gift be in Frank-marriage with his Cozen, rendring Rent; this is in tail, and not Frank-marriage: and if a Gift be with a Woman in Frank-marriage, which is no Cozen to the Giver, this is but for life: See before, the *45 Ed. 3. fol. 20.*

If a man give in Frank-marriage, rendring Rent, the Reservation is void, till the fourth degree be past, *26 Book of Ass. 66.*

Land was given to a man and his wife in Frank-marriage, to have and to hold to the Husband and his Heirs, and adjudged they have Tail, and not Fee; for the Frank-marriage shall not be defeated by words afterwards, *32 Ed. 1. tit. Tail 25.*

Reversion was given with his Daughter to one in Frank-marriage, and is good, *26 Ed. 3. tit. 27. Tail.*

Gift is made with Agnes his Daughter to A. in Frank-marriage, and after A. marries Agnes and dies; and he gives another Acre with Agnes to B. her second Husband in Frank-marriage, and both are Frank-marriage, *31 Ed. 1. tit. Tail 30.*

Gift in Frank-marriage, the Remainder to J. D. in Fee, is not good; for there cannot be an acquittal, where Remainder is given over: time of *H. 8. tit. 11.*

19 Ed. 3. tit. 1. If Lands be given in Frank-marriage (to have) for their lives, the (To have) shall not abidge, but enlarge the Estate, and for that it is Frank-marriage.

2 E. 3. tit. 94. One gives Land to A. with Alice his Daughter in Frank-marriage, to have and to hold to the aforesaid A. and his Heirs, and it seems Frank-marriage.

13 Edw. 1. tit. Formedon 63. J. gave R. and Alice his Daughter, Lands in Frank-marriage, to have to the aforesaid R. and Alice, and their Heirs, or to whom he will assign it; and the said R. did beget no Heir of the said Alice, nor the said R. and A. did not assign it to any in their life time; and it seems, that after the death of R. and A. without Issue, the Land ought to revert to J.: See *45 Ed. 1. fol. 20.*

Tenant after possibility of Issue extinct.

Tenant after possibility of Issue extinct, shall not have aid of him in Reversion, but he in Remainder shall be received upon his default, 2 H. 4. fol. 17. 7 H. 4. fol. 10. and 11 H. 4. fol. 14. *the same.*

Time of Ed. 1. Fitz. waste 125. shall not be punished in Waste; nor shall be compelled to attorn in a (*Quid juris clamat*), 46 Ed. 3. 25. 39 Ed. 3. *the same.* And 12 Ed. 4. fol. 3. *the same.*

If he alien, he in Reversion may enter for Forfeiture, 45 Ed. 3. 25. 11 H. 4. fol. 14. *the same.* 10 H. 6. fol. 1. and 39 Ed. 3. fol. 20.

Tenant after possibility of Issue extinct, shall not have Waste, 2 H. 4. fol. 21. Waste doth not lye against Tenant after possibility of Issue extinct, 45 Ed. 3. fol. 25.

He shall not have aid; but if he alien, he in Reversion may enter for Forfeiture, 10 H. 6. fol. 1. 39 Ed. 3. fol. 20. Lit. fol. 7. and 11 H. 4. fol. 14. *the same.*

39 Ed. 3. tit. 17. tail. Tenant after possibility of issue extinct, which is impleaded, shall not have aid of him in Reversion; but if he alien in Fee, he in Reversion may enter; and shall not be compellable to attorn, nor Waste lies against him; but if he makes default after default, he in Reversion may be received.

Tenant by the Curtesie.

If a married Woman be Tenant after possibility of Issue extinct, and the Fee descends from her Ancestor, and she dies; it is held, that the Husband shall be Tenant by the Curtesie, 9 Ed. 4. fol. 119. and 14 Ed. 3. fol. 7.

Husband discontinues Lands of his Wife, and takes an Estate again to them in Fee, and hath Issue, and the Wife dies, then the Husband shall not be Tenant by the Curtesie, 9 H. 7. fol. 1.

If a man have Issue by his Wife Inheretrix, though she had Issue a Daughter before she inherited; yet he shall be Tenant by the Curtesie, 21 H. 3. tit. Dower 198.

If

If a Woman Signiours take her Tenant to Husband, and hath Issue, and dies, the Husband shall not be Tenant by the Curtesie of Services, 1 *Ed. 3. tit. Dower 70.*

A man shall not be Tenant by the Curtesie, unless his Wife have possession in Deed of it; but of an Advowson and Rent, where she died before day of payment, he shall be Tenant by the Curtesie, 21 *Ed. 3. fol. 49. the same.*

If the Issue be born living, notwithstanding that he dies before he be heard cry, the Husband shall be tenant by the Curtesie; for the Issue shall not be taken if the Infant were heard cry after he was born, but if he were born alive or not, *Perkins, fol. 89.*

A man seised of Land in Fee, is attaint of Felony, his Wife shall lose Dower; but if the wife seised in Fee, be attaint of Felony, and hath Issue by her Husband, and she is hanged, yet the Husband shall be Tenant by the Curtesie, 21 *Ed. 3. fol. 49.*

A man takes a Wife seised in Fee, and hath Issue, he commits Felony, for which he is attaint, the King pardons him; it seems, he shall not be tenant by the Curtesie, by reason of the Issue which he had before his attainder; but if he had Issue after his pardon, it is otherwise, 13 *H. 7. fol. 17.*

If a man takes a Wife seised in Fee, and she is attaint of Felony, and hanged, the King shall have the Land forthwith if the Husband were not intitled to be tenant by the Curtesie, 11 *H. 4. fol. 19. B.*

Daughter and Heir endows her Mother, and after takes a Husband, and hath Issue, and dies, the Mother after dies, the Husband shall not be Tenant but by the Curtesie of that, 8 *Book of Ass. 6.*

3 *H. 7. fol. 5.* If Rent descends to a Daughter, which takes a Husband, and she dies before the day of payment, the Husband shall be tenant by the Curtesie.

Fitzh. 149. D. A man shall not be Tenant by the Curtesie of Land of the Wife, unless the Wife have possession in Deed of that Land; if it be not in a special case, as of Advowson of Rent, where she dies before the day of payment of the Rent.

Tenant in Dower.

THE Wife after the death of her Husband shall remain in the chief House by forty dayes, after the death of her Husband, within which dayes her Dower shall be assigned unto her, unless before it were assigned, and there shall be also assigned unto her, the third part of all the Land of her Husband which was in his life time, *Magna Charta, chap. 7.* *Rastall, Women 1;*

Of widows which cannot have their Dower without suit, that is, that whosoever shall deforce them of their Dowries of the Tenement, of which their Husbands died seised, and afterwards the same Widows by suit recover them, they shall give unto the said Widows all their Damages, according to the value of the whole Dowry, due unto them from the time of the death of their Husbands. *Morton, chap. 1.*

If a Woman of her own accord leave her Husband, and departeth, and liveth with an Adulterer, she shall for ever lose her Action of recovering her Dower, which was due unto her of her Husbands Tenements, and be of that convicted, unless her Husband of his own accord, and without coercion of the Church shall receive her, and suffer her to dwell with him, *Westm. 2. chap. 34.* *Rastall, Dower 1.*

If the Husband be attaint, convict, or out-lawed of Felony; yet his Wife shall be endowed; but if the Husband be attaint of Treason, his Wife shall not be endowed, by *1 Ed. 6. chap. 12. 5 Ed. 6. chap. 11.* *Rastall, Treason 19;*

where a woman shall be endowed; and where not.

WHERE the Husband, Tenant of the King dies, and his Wife is Committed to the King, during that time she shall not have Dower, if she be not foreprised of Dower, *2 H. 4. fol. 7. and 6 H. 4. fol. 7.*

It seems, if a Woman takes a Lease by Indenture for years, that, during this Lease, she is not Dowable; but if she take the Lessor to Husband, and after he dies, she is dowable notwithstanding the Lease, *6 H. 4. fol. 7. Fitzh. 149.* *E. the same.*

Dower

Dower shall not be where the Husband dies, having the Reversion of a Free-hold, that is, of a Reversion of an Estate for life; as a man lets for life, and afterwards takes a Wife, and dies, 2 H. 4. fol. 17. 1 Ed. 6. tit. Dower 89. 7 H. 6. fol. 7. by June.

Fitzh. 149. C. A Woman may be endowed of a Mine of Coals, but she cannot make new Mines, for that shall be said Waste.

Where the Estate is made to the Husband for life, the Remainder to another for life, the Remainder to the Husband in Fee, the Husband dies, his Wife shall not have Dower unless that the Husband survive him in Remainder for life, 46 Ed. 3. fol. 18. B. by Finchden.

If a Lease be made of Lands for years to A, the Remainder to B. for life, the Remainder to the right Heirs of B, and after B. takes a Wife, and dies, during the term of years, his Wife shall recover Dower: But execution shall cease during the term of years, *Perk. fol. 67. A. 1 Ed. 6. tit. 89.*

Where a Woman is endowed of Land, which her Husband took in Exchange; she shall not be endowed of the Land given in Exchange, 31 Ed. 2. tit. Dower 204. and 17 Ed. 2. tit. Dower 162. the same.

Where the Husband holds jointly with one, and no partition made, his Wife shall not be endowed, 8 Ed. 2. tit. 167. Lit. fol. 9. the same.

Where the Husband enters in Religion, the Heir shall inherit, and yet his Wife shall not be endowed; for the Wife may have him again out of Religion, 32 Ed. 1. tit. 136. *Perkins, fol. 91. D. the same.*

If the Husband be tenant in Common with two others in Fee, and dies; now his Wife shall be endowed, but not by metes and bounds. *Fitzh. fol. 149. I. Lit. fol. 9. the same.*

If a Villain takes a Wife, and purchaseth Land, and after the Lord enters, and then the Villain dies, the Wife shall be endowed, 19 Ed. 2. fol. 71.

A woman of eight years three quarters, at the death of her Husband, shall have no Dower. *Litt. 8. 12 Ed. 2. tit. 259. the same.*

A Woman at the Age of ten years, at the death of her Husband shall be endowed, 12 R. 2. tit. 54. and 8 R. tit. 122. the same.

Where

Where the Husband hath an Office to keep a Park, to him and to his heirs, his wife shall be endowed of that, *Plow. Com. f. 379.*

If the Lord enter for Mortmain, yet the Wife of the Tenants shall have Dower, *Perk. f. 76. A.* The same Law, if the Lord recover against the husband in *Cessavit*, the Wife of the Tenant shall be endowed, 34 Book of Ass. 15. where the husband dies without heir, and the Land Eschears, the wife shall be endowed.

Tenant by the Curtesie surrenders to the Husband in reversion, upon condition, and enters for the Condition; the wife of him in reversion shall not be endowed, 14 Ed. 4. *fol. 8.*

Where a man enfeoff, one upon condition, to re-enfeoff the Feoffor again, it behoveth that be made to a man unmarried, or to a Chaplain that hath no wife; for if it be to a man which hath a wife, she shall be endowed, 38 H. 8. *T. t. Assurance, 3. 28* Book of Ass. 4. the same.

Land is mortgaged to the husband, and after the condition broken, the husband by Agreement takes his money and dies, his wife shall be endowed, 42 Ed. 3. *f. 1.*

A woman hath title of Dower, and enters upon the heir, and enfeoffs him by Deed, she hath given him her title of Dower included, and is not now dowerable of that Land, 11 H. 7. *f. 20.*

The husband Tenant in general tail, makes a Feoffment, and takes back a special tail, and his first wife dyes, and he takes another wife, and he dies, and his Issue enters, this second wife shall not be endowed, for the heir was remitted, 41 Ed. 3. *f. 30.* & 46 Ed. 3. *f. 24.* the same.

Where Land is given to the husband, and his wife in special tail, the remainder to another in tail, the remainder to the right heirs of the husband, and the wife dyes, and the husband takes another wife, and dyes, living him in remainder, the second wife shall not be endowed of that Land, 46 Ed. 3. *f. 16.*

Land is given to the husband and K. his wife in special tail, the remainder to the husband in general tail, and K. dyes without Issue, and the husband takes another wife and dyes, this second wife shall not be endowed, 50 Ed. 3. *fol. 4.*

Where the husband and his wife have special tail, the
Y second

Second wife shall not be thereof endowed, 22 Ed. 3. f. 9. B. Litt. fol. 11. the same.

Where Land is given to the husband and his heirs which he begets of the body of *Margaret* his wife, which was dead at the time, and he takes *Elizabeth* and dyes; this second wife shall not be endowed, 12 H. 4 f. 2.

If a woman go away with an Adulterer into some Land of her husbands, and be not reconciled, yet she shall not lose Dower: otherwise it is, if she were out of the Lands of her husband, 8 R. 2. Tit. 253.

If a woman go away and dwell with an Adulterer, she shall not have Dower; but if she were carried away against her will, and was carried 20 miles, and returns, and her husband dies, she shall have Dower, 43 Ed. 3. fol. 19.

47 Ed. 3. fol. 13. Where a Recovery is by default, or a reddition against the husband without title, the wife shall have Dower.

46 Ed. 3. fol. 23. Where a Recovery is against the husband, the wife is barred of Dower; but if the recovery were by default, it is remedied by the Statute; and where by Surrender, is aided by the Common-Law, and other recovery is not remedied.

Against whom Dower may be brought: and what Assignment is good; and what not.

W Here a Guardian in Socage endows a Wife, it seems it is disseisin; for a Writ of Dower doth not lie against a Guardian in Socage, but against a Guardian by Knights-Service it lyeth, 29 Bo. k of Ass. 68.

Assignment of Dower by the Disseisor is good, if it be not by Covin of the wife. The same Law is by Abator, or Intruder, *Perk. fol. 76.*

Assignment of Dower by the Tenant of the Freehold, is good, and ought to be by him, 12 Ed. 3. tit. 86. *Perk. 78.* the same.

Guardian in Socage cannot assign Dower, but Guardian by Knights Service may, 3 Ed. 3. Tit. 108. *Perkins, fol. 78. G.*

It appears, that Guardian by Knights Service may assign Dower, *Fitzh. fol. 148. A.* Where

Where the Husband was seised of divers Tenements and Mannors, and the Sheriff assigns the Wife, which recovers one Mannor, and a whole Advowson, it is good; for it is an infinite work to assign part of every Acre, 12 Ed. 4. fol. 2.

If the Husband hath three Mannors, and during the marriage, charges them with a Rent and dies, if the wife take the third part of every Mannor, she shall hold it discharged; but if she take one Mannor only, she shall hold two parts charged, 17 Ed. 2. tit. 164.

It seems it is a good barr in Assignment, that her Husband before the marriage, granted by Deed to her a Rent in the name of Dower, to which she agreed after his death, 20 Ed. 4. f. 3. in *Dower*; but inquire.

Rent assigned out of Land of which she is Dowable without Deed, is good; but out of other Land, it is not, 33 H. 6. f. 2. B.

Assignment of Rent out of the same Land, out of which she is dowable, is good Bar in Dower, if she agree, 7 H. 6. f. 36. *Perkins*, f. 76. D. the same.

If a woman recover in a Writ of Dower, she cannot enter without assignment; but in other *Precipe*, if one recover, he may enter, but here it shall be assigned to her by the Sheriff, by metes and bounds, 40 E. 3. f. 22.

Where the Woman recovers damage, and where the Tenant may say, he is yet ready to excuse him of damages, if it be in Copyhold, and otherwise.

A Woman shall recover damages where the husband dyed seised, if the Tenant do not come in the first day ready to render Dower, *Nat. Brev. fol. 7.*

If the Tenant come at the first day, and saith, That he was always ready, the Plaintiff may aver, That she hath demanded Dower, and she cannot have it, 2 H. 4. fol. 8. and this found, she shall recover damages.

At the Summons returned, the Tenant comes, and saith, that he was always ready to render Dower, and yet is; for the Plaintiff to say, That he was not ready always, is no Plea; but, by *Turn*, she ought to shew that her husband died seised, and she demanded in the County, and you refused; but by *Hink*, the bringing of the Writ is a demand

in Law, but he agreed, that she ought to aver, the dying seised of her husband, if she will recover damages. 6 H.4. fol. 5.

Dower, the Tenant saith, That he was always ready, and yet is; and the demandant avers, that her husband died seised, and saith, That he was not ready; and for that this is no Issue; but she shall say, That she demanded, Inquest of Office was awarded, which finds he dyed seised, and the wife shall recover damages from the time of his death: but where the Tenant was ready, though that the Tenant dyed seised, the Wife shall not recover damages, 11 H.4. fol. 39. & 6 H.4. f. 5.

Dower, the Tenant saith, That he hath been alwayes ready to render Dower, and yet is; the Plaintiff saith, that her husband dyed seised. And she required the Defendant at D. and he refused, and the Issue shall not be, that he did not refuse generally, but he offered, and she refused, without that, that he refused, 13 Ed.4. f. 7.

Dower, the Tenant acknowledgeth the Action, and the Demandant to have damages surmise h, that her husband dyed seised, and hath a Writ to enquire of damages; and held, that if the Tenant come at the first day, and will aver, That he was ready, and yet is, if the Demandant cannot aver the contrary, the Demandant shall not recover damages. 14 H.8. f. 28.

If the Tenant be effoined, yet he may say, *Yet ready*; for the Essoin may be cast by a stranger, 7 H. 7 f. 7. & fol. the last; the same, 2 Ed.4. f. 20, & 14 H.6. f. 4 the same.

Dower after Imparlance, the Tenant cannot say, that he was alwayes ready, and yet is, 5 Ed.4. f. 141.

Tenant for life.

A Man devises all his Goods to his Wife, and would that his Son should have his house after the death of his wife, notwithstanding that it is not devised to the wife; she shall have that for her life, 13 H.7. f. 17.

Lease for a woman as long as she lives unmarried, or as long as she behaves her self well, it is for life conditional, 37 H 6. f. 28.

Land is given to one to have and to hold, so that he
pays

pays to the Grantor for his life 10 l. this is an Estate for life. *Book of Ass. 9.*

An Estate to one till he hath levied ten pounds, he hath that for life till, &c. *21 Book of Ass. 18.*

If I let to W. N. to hold till a hundred pound be paid, and without making Livery and Seisin, he hath an Estate but at will; and if there be Livery, it is for life upon condition, to cease the hundred pound levied, *2 Mar. Br. Lease 67.*

And so in the three Cases next, it is to be intended Livery to be made.

J. S. Tenant for life aliens to B. to have to him and to his Heirs for the life of J. S. : B. hath an Estate but for the life of J. S. *24 H. 8. tit. Forfeiture, 87.*

If Lands be given to a man and his wife, and to the heir of their two bodies begotten, and they are divorced, now they have but an Estate for their lives, *7 H. 4. f. 18.*

If I grant Rent to you without more, you shall have that for life, *7 Book of Ass. 1.*

If a Devise be to one without more, he hath an Estate for life, *22 Ed. 3. f. 16.*

Tenant for Years.

What Act determines a Lease for years, and who shall have the Corn; what is a good Lease for years; and what not.

THE husband seised in right of his wife, lets for seven years, and dyes, the Wife may enter; but if the Termor had sowed the Land in the life-time of the husband, the Termor shall have the Corn, *7 Book of Ass. 19.*

If the Lord enter upon a Copyholder for Forfeiture, and the Land be sowed, the Lord shall have the Corn, *42 Ed. 3. fol. 25.*

The Husband and the Wife lets the Land of the wife for twenty years, rendring Rent, and the Husband dyes, the Wife accepts the Rent; it is a good Lease, and was not void, *3 H. 6. f. 2. 2 H. 6. fol. the same, 21 H. 6. 24.*

If a Parson or a Prebendary let for years, rendring Rent and dies, though that the Successors accepts the rent, the Lease is not good, *32 H. 8. Tit. Acceptance, 14. 32 H. 8. Tit.*

Dean and Chapter 20. 24 H.8. Tit. B. 19. 38 H.8. Lease 18.

22 H.8. Tit. *Ancestor*, 14. If Tenant in Dower lets for years, rendring Rent, and dies, the Lease is void, and acceptance by the Heir of the Rent will not make the Lease good, for it was void before, 9 E. 4. f. 37. by *Nedham*, If I let Land for years in which is a Mine; I cannot enter and take that, nor Trees, but I shall be punished.

The Bishop lets for years, rendring Rent, and dies, and the Successor accepts the Rent, this makes the Lease good, for the Bishop hath Fee, and may have a Writ of Right; 2 Ed. 6. Tit. *Acceptance*, 20.

The same Law is, where an Abbot lets for years, rendring Rent, and dies, the Successor accepts the Rent, the Lease is good, 21 Ed. 4. f. 5. B.

Where Tenant in tail lets for twenty one years, and dies, and the Issue in tail outs the Lessee, as he may, and doth not accept the Rent, the Lessee may have covenant against the Executor of the Lessor, and recover damages though it be not warranted, 48 Ed. 3. f. 2.

A Lease by Tenant in tail for twenty one years, made according to the Statute, rendring ancient rent, or more; though tenant in tail die, this is a good Lease against the Issue; but if Tenant in tail die without issue, the Donor may avoid this Lease by Entry, 32 H.8. Chap. 28.

Tenant in tail, the Remainder over, lets for years, rendring Rent, and dies without issue, and he in the remainder accepts the Rent, this shall not binde him, in so much that when the intail is determined, the Lease is determined and void, 1 Ed. 6. Tit. *Acceptance*, 19.

Lease for years, and so from year to year, as long as both parties pleased; after he hath entred into every year, it is a Lease for that year; and a Lease for a thousand years, is good, 14 H.8. f. 1.

Lease for three hundred years is good, and is but a chattel, notwithstanding the long time, 32 *Book of Ass.* 6.

If a man lets for sixty years, and so from sixty years to sixty years, untill two hundred years be ended, this is also one self-same Lease, and good, 29 H.8. Tit. *Lease*, 49. and *Plowdens Commentaries*, 273. the same.

The Husband and his Wife purchase to them and to the Heirs of the Husband, and after the Husband lets for years and

and dies, the wife may enter and avoid the Lease for her life; but if she die before the residue of the Term, it is good against the Heir of the Husband, 33 H. 8. Tit. *Lease*, 58.

And Note, by all the Justices, That the Guardian by Knight Service shall not out the Termor, where he hath a Lease of his Tenant which dies, his Heir within age: Contrary was the Law in times past, as it appears before in the Title *ward*.

Where it is agreed and granted to J. S. that he shall have twenty Acres in D. for twenty years, this is a good Lease, for this word (*Concessit*) is as strong, as *Demised*, 37 H. 8. Tit. *Lease*, 60.

If one License one to enter, and to occupy his Land for years, it is a Lease for years in Law, 10 Ed. 4. fol. 4. and 5 H. 7. f. 1. the same.

Tenant in tail lets for twenty two years, rendring Rent, and dies, and the Lessee lets that over for ten years, and the Issue accepts the Rent of the second Lessee, this is no confirmation of the Lease, for there is no privity betwixt the second Lessee and him, 32 H. 8. Tit. *Acceptance*, 13.

A man lets for ten years, and the next day lets the same land to another for 20 years, this is a good Lease for the last ten years of the twenty years, which are ended after the first ten years, 26 H. 8. Tit. *Lease*, 48. See the time of H. 8. Tit. *Lease*, 35.

Weston saith, If I let for so many years as J. S. shall name, and after J. S. in my life-time names certain years, the Lease is good for those years, *Plowd. Comment*, 273.

A man lets a House with the Appurtenances, no Land passes; but if a man lets a House, with all the land to the same belonging, there the lands with that used to pass, and it is a good Lease of those, *Plowd. Com. fol.* 273. 31 H. 8. Tit. *Leases* 55. See *Plow. Com.* 85. B. and f. 170. 23 H. 8. Tit. *Feoffments* 53.

If a man lets for life to J. S. and the next day lets to W. N. for years, the second Lease is void, if it be not granted of a Reversion, 37 H. 8. Tit. *Lease*, 48.

A man lets for years, to have after the Lease thereof made to J. N. ended, and in truth J. N. hath no lease, this begins forthwith, 3 Ed. 6. Tit. *Lease*, 62.

A man hath a Lease for years as Executor of J. S. and after purchaseth the Reversion, the lease is extinct and determined, yet it may be Assents, 4 Ed. 6. tit. *Extincti-
ment* 24.

Leases made by a Bishop, otherwise then for 21 years, or three lives, from the time that such Lease begins, and whereupon the old Rent is not reserved, is void, 1 *Eliz.* not in Print; and for that a Lease made for thirty years by a Bishop, and confirmed by the Dean and Chapters, under their Seal, shall not binde their Successor; but if the Bishop, Dean and Chapter, joyn in a Lease for thirty years, this is a good Lease, notwithstanding this Statute. And see *Pulton*, tit. *Ecclesiastical persons*, what lease by spiritual persons is good, and what not. And see 13 *Eliz.* chap. 10. That a Lease by Bishop, Dean and Chapter for longer time then twenty one years, or three lives, is not good: and by 14 *Eliz.* chap. 11. they may make a Lease of houses in Cities and Boroughs for forty years; and by 18 *Eliz.* chap. 11. They cannot let where there is an old lease, which hath continuance for three years or more.

A man possessed of a Term for forty years, grants so many of them to J. S. which shall be behind at the time of his death, and it seems it is void for the incertainty; otherwise it is, if it were by Devise.

But if a man lets his Latd to have after his death for forty years, this is good, for this is certain, 7 Ed. 6. Tit. *Lease* 66.

See 8 H. 7. fol. 4. Grant of Rent, but if a man let for life, and four years over, it is good.

Tenant which holds in chief dies, his Heir, before Livery sued, makes a Lease for years, this is good, if no intrusion be found by Office; and if after the Lease, the dying seized be found by Office, and no intrusion, it hath no relation to the death of the Ancestor, unlesse for the Profits, and not to defeat the Lease, 5 Ed. 6. tit. *Lease* 57.

Tenant at Will.

what Acts Tenant at Will may do; and what to him, and what by him are good; and what not.

IF Tenant at Will lets for years in his own name, he is a Disseisor, 2 Ed. 4. f. 12.

Release made to the Tenant at Will by the Lessor, is good, *Litt. f. 108.*

If one alien his Mannor, there need not that Tenant at Will attorn, *Litt. f. 125.*

Tenant at will cannot grant over his Estate to any, for he hath no interest certain, 27 H. 6. f. 3. B.

If a man lets to one at will, the Lessor dies, the Will is determined, 21 H. 6. f. 42.

If Tenant at will be outed, this is disseisin to the Lessor, and yet the Tenant at will may enter without commandment of his Lessor; for the Will continues, 38 H. 6. fol. 28.

If Tenant at will make waste, Action upon the Case lies against him, and not waste, 48 Ed. 3. f. 25. 11 H. 6. f. 38. the same. See *Lit. f. 15.* & 12 Ed. 4. f. 9. the same, 22 Ed. 4. f. 5. Trespass lies.

14 H. 8. t. 12. by *Brown*, If Tenant at will makes waste, Action upon the Case lies: And by *Roe*, If my Father lets at will, and dies, the will is determined.

Littleton, fol. 14. If Tenant at will makes voluntary waste, he saith, That the Lessor shall have an Action of Trespass; but it seems he intended trespass upon the Case.

48 Ed. 3. f. 2. Action upon the Case lies against Tenant at will, which makes waste in burning of Houses willingly, and not Action of Waste.

2 Ed. 4. f. 5. By *Littleton*, If I deliver to you my Gown, and you burn it, Action upon the Case lies, and not trespass. By force of Arms, 43 Ed. 3. fol. 30. If one hath goods by delivery, trespass doth not lie against him, but *Detinue*.

21 H. 6. fol. 43. is, That an Action of Waste doth not lie against Tenant at Will, which makes Waste, but Trespass.

41 Ed.

Tenant at Sufferance.

41 Ed. 3. fol. 24. Where a Miller takes more tole then he ought, Action upon the Case lies against him, and not trespass.

2 Ed. 4. fol. 5. If my Servant of a Shop, which hath power to sell, gives u y Wares, it seems that I shall have trespass against the Donce.

Tenant at will may cut Trees seasonable; but if he cut great Trees, waste doth not lie, but Action upon the Case.

Tenant at will of a Mine may take the Oar and sell it, 12 Ed. 4. f. 8.

He which holds at will, hath that at the will of both, and Debt lyeth for the Rent reserved, 20 Ed. 4. f. 9.

If the Lessee at will, sow the Land, and after be outed, he shall have the crop; but if he be outed after the Plowing, and before the sowing, he shall lose the Costs of plowing, and the compost of that, 11 H. 4. f. 90.

Tenant at Sufferance.

Who is Tenant at Sufferance, and who not; and what acts he may do.

TENANT at Sufferance is, where one of his own head occupies my Land and claims nothing, but at my will; and release to him, is not good, *Littleton, f. 108.*

There is no Tenant at sufferance, but he which first enters by Authority, and lawfully: as, a man lets for years, or for anothers life, and holds in further after the Lease expired, or after the death of him for whose life, time of H. 8. tit. *Tenant by Copy*, 15.

Tenant at sufferance is, When Lessee for years after the Term ended, occupies the Land by consent of the Lessor, without a Lease at will, 21 H. 6. f. 42.

Tenant at sufferance may distrain doing damage upon the Land, and yet release made to him is not good, 4 H. 7. f. 3, and he may have trespass.

Villainage.

Villainage.

For that, that in the fifth Article, Villainage is to be enquired in Lect, and in Court-Baron; and is to be enquired, who is Villain of the King; Something shall be said touching that, and first how they began, and where the Lord may seise and have them, and how their Goods and Chattels, and other things; and how Entry, and how not.

Villains began after Noah's Flood, that is, When all things were in Common, and when they encreased, and also were taken in Battels, and one kill'd another; to avoid this mischief, it was ordained, that none should kill another, but those whom they overcame should be their Villains, to use at their pleasure; but not to kill them. *Britton, fol. 77.*

If the Villain buy Goods, and sell them, or give them to another before the Lord seise them, then the Lord cannot seise them, nor have them; otherwise it is, of the Kings Villain. *lit. fol. 39.*

Lord and Villain, the Lord is indubed to one, which makes the Villain his Executor, the Villain shall have debt against his Lord, and the Lord cannot seise and have the Goods which the Villain hath as Executor, 3 H. 4. fol. 15. the same, 47 Ed. 3. fol. 16. *Litt. fol. 41.* and 21 Ed. 4. fol. 50. *Old Tenures 2.*

If a Villain die before the Lord seise his Goods, or claim by word, the Lord cannot seise them, nor have them, but his Executors, 3 H. 4. fol. 17.

If a Villain purchase Lands, and alien them before that the Lord enter; or buy Goods and sell them before that the Lord seise them, the Lord shall not have them. *Lit. fol. 39.*

If the Lord seise Goods, and deliver them to the Villain again; if they be taken from him, the Lord may have Trespafs, or take and seise them again, and have them, 11 H. 4. fol. 2. *Lit. fol. 39.*

If he seises parcel of the Goods in name of all, that sufficeth for all.

The Lord hath possession of Goods of his Villain by Seisure,

Seifure of Land by Entry, of Rent, Reversion, and advowson, by claim. *Perkins, fol. 6. Littleton 40.*

The Lord cannot seife his Villain in the presence of the King, and yet after he may have him, 27 *Book off Assises* 49.

If my Villain Infant be in ward of one, by reason that he holds of him by Knights-Service, I may enter and seife the Infant, and out the Guardian, and shall have him, 40 *Book of Ass.* 7.

The Lord cannot take and seife his Villain out of the Service of another which hath retained him, unless that he hath more Servants; but he may seife the Goods, 39 *R. 2. Tit. Action upon the Case* 52.

The Lord may take the Rent which the Villain hath in possession; but not a thing in Action, as obligation of Debt or Covenant.

What is Infranchisement, and what not.

IF a Free-man marry his the Villain, she is enfranchised. *Little. fol. 41. And that their Issue is free, 46 Ed. 3. fol. 4.*

If a the Villain marry a Free-man, she is made Free for ever, and shall not be a Villain again, unless by a special Act afterwards, as being divorced, or acknowledgeeth her self a the Villain in Court of Record. *Fitzh. fol. 78 G. 33 Ed. 3. fol. 187. Statham, is, that she is enfranchised but during the marriage.*

If a Villain Woman marry a Free-man, she and all her Issue have a Free Estate for ever; and a Villain becomes Free if he marry his Mistress: the same Law, if a the Villain marry her Lord. *Britt. fol. 78. A.*

If a Villain dwell in ancient Demesne of the King by a year and a day without claim, he is enfranchised. *Fitz. 3. fol. 79. a. but there held, if he dwelt in the ancient Demesne of another Lord than the King, by a year and a day, without claim, he is not enfranchised, 39 H. 6. Tit. 20. and 39 E. 3. fol. 6.*

If the Lord and his Villain vouch together, where the Villain hath purchased Lands, if he be not from all benefit shut up, being called to warranty, it is an enfranchisement, 33 H. 6, fol. 1.

The

The Reversion is granted to a Villain; and his Lord being Tenant for life attorns, this doth not enfranchise the Villain; for the Lord gives nothing to the Villain, and he cannot otherwise have the Reversion, 11 H. 7. fol. 13.

If a man enfranchise his Villain with the whole sequel; it behoveth to be for those created, and to be created, sonne born before that enfranchisement is not made free, 15 H. 7. fol. 14.

Though the Lord make Attorney where his Villain is Plaintiff, it is no enfranchisement, 22 Book of Ass. 4. and 29 Ed. 3. fol. 24. the same.

If the Lord suffer his Villain to be sworn of a Jury in the Kings Court, it is an enfranchisement. Britton, fol. 83.

Villain shall be enfranchised, for that his Lord sues a (*Recordare*) upon a Plaint or Replegiare, 5 Ed. 3. fol. 187. Statbarn.

Tenant in tail of a Mannor, to which is a Villain regardant, aliens the same Land to the Villain; and dies: the Issue recovers the Land against the Villain, yet he may attor seise the Villain, and he is not enfranchised, notwithstanding that he brought Action against his Villain, for he cannot otherwise come to the Land, 24 Edw. 3. fol. 187.

If in an Action a Villain imparl with his Lord, or hath a day by (*Prece partium*) he is enfranchised, 9 H. 6. fol. the last, and 22 Ed. 4. fol. 36. the same.

If the Lord suffer his Villain to be made a Knight, it is an enfranchisement. Britton, fol. 79.

If the Lord enfeoffs his Villain, it is an enfranchisement for ever, 12 H. 3. tit. 42.

If the Plaintiff in a Writ of (*Neife*) be non-suited, he shall not have again in his life time any other (*Nativo habento*) but the Villain by them is enfranchised during her life time, 6 Ed. 2. tit. Villainage 26. See 19 Ed. 2. Tit. 31.

If the Lord make to his Villain an Obligation, or grant to him an annuity, or let to him by Deed for years, or make to him a Feoffment, and livery, and seisin, he is enfranchised; otherwise it is, if he makes to him a Lease at Will; or a Feoffment and no livery. Lit. fol. 45.

By

By *Bilby*, if the Lord enfeoffs his Villain without Deed, he is not enfranchised, 24 Ed. 3. tit. 32.

Villain to two Coparceners, he marries one of them, yet he is not enfranchised against the other Coparcener. *Fitzh. fol. 197. N.*

If a Copy-hold escheat, or come to the Lord by Forfeiture, and the Lord grants that over by Copy to J. S. his Villain, and to his Heirs, to hold at the Will of the Lord, according to the custom of the Mannor by the Services due, and used to be paid, this is an enfranchisement; but if a Copy-holder Surrender into the hands of the Lord to the use of J. S. the Lords Villain, and to his heirs, and the Lord by his Steward grant to him seisin by the rod accordingly, this is no enfranchisement.

How the Lord may take advantage of things which he hath by his Villain, by act of his Villain.

Mannor, to which a Villain is regardant, is lett to one for life, and the Villain purchase in Fee; the tenant for life enters, he shall have Lands to him and to his heirs for ever. *Perk. fol. 20.*

If a Villain be granted to one for life, and the Villain purchase in Fee, the Lessee enters, he shall have Fee; but if the Lord be Lessee for life, and the tenancy escheat, he shall not have that but for life. *Doctor and Student, fol. 90.*

If Lessee for years of a Mannor, to which a Villain is regardant, dies, and the Villain purchase Lands, and the Executor of the Lessee enter, he shall have the Land in Fee; but it shall be to the use of the Testator. *Doctor and Student, fol. 90.*

Where a Parson hath a Villain which purchases Lands, and the Parson enters; he shall not have that to the use of himself, but in the right of his Church, 32 H. 8. tit. Villainage 46.

Where a Villain is enfeoffed with warranty, the Lord may rebut by that, if it were descended in possession of the Villain, but not vouch to have in value, 10 Ed. 3. fol. 29. and 22 Book of Ass. 27.

If a Villain and his wife purchase jointly in Fee, and the Lord enters in the half, as he may, he shall have it; but if

if he do not enter, but the Husband dies, the Wife shall have it by the Survivor; and the Lord hath lost his advantage to have the moyety. *Abridgm. of Ass. fol. 37. 40 Ass. 7.*

If a Villain be bound in a Statute, and, before the day incurred, his Lord enters, the Lord shall have such advantage that execution shall not be sued against him, *18 Ed. 3. Tit. Execution, Statham.*

If my Villain purchase Land, and I seise it, and the Villain dies; yet the Wife of the Villain shall be endowed, by *Hevl. 13 Ed. 3. 74. Statham. 19 Ed. 2.*

WASTE.

And in so much, that you ought to enquire, if any Farmer which hath part of the Demesnes of your Lordship hath made waste, or any Copy-holder (and so by the Custom of the Mannor he may make waste) if any of them have made waste or not. First, let us see what is waste in Land, and to be punished; and what not.

IT is not Waste to suffer the arable Land to lye fresh, so that it is full of thorns. *Fitzh. fol. 59. N. 2 H. 6 fol. 11.*

To suffer a Meadow to be drowned, which is rushy or little worth; or arable Land to be drowned, that nothing remains but rough Clay; this is Waste, *20 H. 6 fol. 1.*

15 H. 3. Tit. 131. Waste was brought, for making meadow arable, by *Plowd. 2.* and it seems it lies.

If a Farmer plow meadow, it is Waste. *Fitzh. fol. 59. N. and 15 H. 3. Tit. 131.* the same, *12 H. 2.*

If a Farmer do not repair Banks of his Land in Lease, by which the Land is drowned; or if he dig for Copper, or Stone, or Coals, it is Waste. *Fitzh. fol. 59. N. 20 H. 6. fol. 1.*

Waste lies against a Farmer for Fish in a Pool, *6 R. 2. Statham.*

If there be a Myne in the Land, if the Farmer dig the Land, and take it, it is Waste, *9 Ed. 4. fol. 35. B.*

Razing up a Furnace fixed, is Waste, *42 Ed. 3. fol. 6.*

What

Seifure of Land by Entry, of Rent, Reversion, and advowson, by claim. *Perkins, fol. 6. Littleton 40.*

The Lord cannot seife his Villain in the presence of the King, and yet after he may have him, 27 *Book of Ass. 49.*

If my Villain Infant be in ward of one, by reason that he holds of him by Knights-Service, I may enter and seife the Infant, and out the Guardian, and shall have him, 40 *Book of Ass. 7.*

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Tenant in tail of a Mannor, to which is a Villain regardant; aliens the same Land to the Villain; and dies: the Issue recovers the Land against the Villain, yet he may after seise the Villain, and he is not enfranchised, notwithstanding that he brought Action against his Villain, for he cannot otherwise come to the Land, 24 Edw. 3. fol. 187.

If in an Action a Villain imparl with his Lord, or hath a day by (*Prece partium*) he is enfranchised, 9 H. 6. fol. the last, and 22 Ed. 4. fol. 36. the same.

If the Lord suffer his Villain to be made a Knight, it is an enfranchisement. Britton, fol. 79.

If the Lord enfeoffs his Villain, it is an enfranchisement for ever, 12 H. 3. tit. 42.

If the Plaintiff in a Writ of (*Neise*) be non-suited, he shall not have again in his life time any other (*Nativo habendo*) but the Villain by them is enfranchised during her live time, 6 Ed. 2. tit. Villainage 26. See 19 Ed. 2. Tit.

31.

If the Lord make to his Villain an Obligation, or grant to him an annuity, or let to him By Deed for years, or make to him a Feoffment, and livery, and seisin, he is enfranchised; otherwise it is, if he makes to him a Lease at Will; or a Feoffment and no livery. Lit. fol. 45.

By

By Bilby, if the Lord enfeoffs his Villain without Deed, he is not enfranchised, 24 Ed. 3. tit. 32.

Villain to two Coparceners, he marries one of them, yet he is not enfranchised against the other Coparcener. Fitzb. fol. 197. N.

It a Copy-hold escheat, or come to the Lord by Forfeiture, and the Lord grants that over by Copy to J. S. his Villain, and to his Heirs, to hold at the Will of the Lord, according to the custom of the Mannor by the Services due, and used to be paid, this is an enfranchisement; but if a Copy-holder Surrender into the hands of the Lord to the use of J. S. the Lords Villain, and to his heirs, and the Lord by his Steward grant to him seisin by the rod accordingly, this is no enfranchisement.

How the Lord may take advantage of things which he hath by his Villain, by act of his Villain.

Mannor, to which a Villain is regardant, is lett to one for life, and the Villain purchase in Fee; the tenant for life enters, he shall have Lands to him and to his heirs for ever. *Perk. fol. 20.*

If a Villain be granted to one for life, and the Villain purchase in Fee, the Lessee enters, he shall have Fee; but if the Lord be Lessee for life, and the tenancy escheat, he shall not have that but for life. *Doctor and Student, fol. 90.*

If Lessee for years of a Mannor, to which a Villain is regardant, dies, and the Villain purchase Lands, and the Executor of the Lessee enter, he shall have the Land in Fee; but it shall be to the use of the Testator. *Doctor and Student, fol. 90.*

Where a Parson hath a Villain which purchases Lands, and the Parson enters; he shall not have that to the use of himself, but in the right of his Church, 32 H. 8. tit. Villainage 46.

Where a Villain is enfeoffed with warranty, the Lord may rebutt by that, if it were discended in possession of the Villain, but not vouch to have in value, 10 Ed. 3. fol. 29. and 22 Book of Ass. 27.

If a Villain and his wife purchase jointly in Fee, and the Lord enters in the half, as he may, he shall have it; but if

If he do not enter, but the Husband dies, the Wife shall have it by the Survivor; and the Lord hath lost his advantage to have the moyety. *Abridgm. of Ass. fol. 37. 40 Ass. 7.*

If a Villain be bound in a Statute, and, before the day incurred, his Lord enters, the Lord shall have such advantage that execution shall not be sued against him, *18 Ed. 3. Tit. Execution, Statham.*

If my Villain purchase Land, and I seise it, and the Villain dies; yet the Wife of the Villain shall be endowed, by *Herl. 13 Ed. 3. 74. Statham. 19 Ed. 2.*

WASTE.

And in so much, that you ought to enquire, if any Farmer which hath part of the Demesnes of your Lordship hath made Waste, or any Copy-holder (unless by the Custom of the Mannor he may make Waste) if any of them have made Waste or not. First, let us see what is Waste in Land, and to be punished; and what not.

IT is not Waste to suffer the arable Land to lye fresh, so that it is full of thorns. *Fitzh. fol. 59. N. 2 H. 6 fol. 11.*

To suffer a Meadow to be drowned, which is rushy or little worth; or arable Land to be drowned, that nothing remains but rough Clay; this is Waste, *20 H. 6 fol. 1.*

15 H. 3. Tit. 131. Waste was brought, for making meadow arable, by *Plowd. 2.* and it seems it lies.

If a Farmer plow meadow, it is Waste. *Fitzh. fol. 59. N. and 15 H. 3. Tit. 131.* the same, *12 H. 2.*

If a Farmer do not repair Banks of his Land in Lease, by which the Land is drowned; or if he dig for Copper, or Stone, or Coals, it is Waste. *Fitzh. fol. 59. N. 20 H. 6. fol. 1.*

Waste lies against a Farmer for Fish in a Pool, *6 R. 2. Statham.*

If there be a Myne in the Land, if the Farmer dig the Land, and take it, it is Waste, *9 Ed. 4. fol. 35. B.*

Razing up a Furnace fixed, is Waste, *42 Ed. 3. fol. 6.*

what is waste in Houses to be punished ; and what not.

IF a House be uncovered by suddain tempest, it is not Waste ; but if the Lessee suffer that to be uncovered, that the Timber rot, it is Waste : and if the House fall by suddain tempest, it is no Waste, 12 A. 4. fol. 4. 33 H. 6. Tit. 155. B. by Danby and Choke, If strangers, enemies of the King, destroy a House, or that it be blown down by suddain tempest, Waste lies not ; contrary, where it was by Enemies, Traytors, Subjects, 12 H. 8. fol. 1. See the time of Ed. 2. tit. 123. where it was burnt by J. S. his Neighbour by mischance.

It seems, that not covering of a House is no Waste, till the great Beam of that is rotten, 10 H. 7. fol. 2. b.

It seems, waste may be assigned in breaking a stone-wall, and also in a mud-wall, for that it is fixt to the Free-hold. But the Lessee may plead, that the Lessor licensed him to break it down, and this is a good Barr : And adjudged, that if a House be not covered at the time of the Lease made, the Lessee is not bound to cover that ; and also if a House were ruinous at the time of the Lease made, that is a good bar to plead in waste, 10 H. 7. fol. 2. b. 40 Ass. 22. the same, and 10 H. 7. fol. 5. the same, where a House falls by tempest, though the Lessee covenant to repair it, he may plead in bar in a writ of waste, that it fel by tempest though he cannot plead it in a writ of Covenant, 40 E. 3. fol. 6.

If a Farmer build a House, where there was none before the Lease, and suffers that to decay, it is waste, 11 E. 2. Statham, 12 H. 4. fol. 6. the same, 42 Ed. 3. fol. 21. the same ; and 17 Ed. 2. tit. 118. the same.

If Waste in a House be repaired, hanging the writ of Waste, it is not to purpose ; but if it were repaired before a writ purchased, it is otherwise, 33 Book of Assise 1. 21 H. 7. fol. 26. by Kingsmill, and not denyed ; that a Furnace fixed by a Farmer, and not to the walls, Posts, and such like, by him fixed, and taken away within his term, is no waste, for the House is not impaired. But where Tenant in Fee fixes a Furnace in the midst of the House, the heir shall have it, and not the Executors ; the same Law, of a Fat fixt in a Brew-House.

34 Edw. 3. Tit. 3. Where a House falls by great wind

winde or tempest, it seems the Lessor shall have the great Timber, for that is not waste, and the Lessee shall not build that, 11 H. 4. fol. 21.

9 H. 6. fol. 52. Lease to a Woman unmarried, which takes a Husband, which builds a House, and dies, the Woman shall be charged with that in waste, 47 Book of Ass. 12. If Posts of a House be, and the rest is fallen; if the Guardian take away the Posts, it is no waste: for it is no House when it is not walled nor covered. And if one take away a frame of a house which was newly built, and never covered, it is no waste.

What is waste punishable in Woods; and what not.

If a Stable were ruinous at the time of the Lease, and falls, the Lessee may cut Trees, and make a new house: but if no house were there before, he cannot cut Trees to make a new House, as it seems, 11 H. 4. fol. 32.

The Farmer may cut Trees to amend his House, and make reparations: but if the House be decayed by the default of the Farmer, then if he cut Trees to repair that, it is waste. Fitzh. 59. K.

Cutting of dead Wood by a Termor is no waste. And if a man cut wood to burn, where he hath dead wood sufficient, that is waste; and it is no waste to cut seasonable Wood, which used to be cut every 20 years, or within that time. Fitzh. fol. 59. M.

It was agreed, that young Oaks of the age of twenty years, nor under twenty years, could not be cut by a Farmer for years, nor for life, for they may be Timber; and by his cutting, they will never grow to be Timber: time of H. 8. tit. 334. B. See 11 H. 6. fol. 1. Cutting Willows within the view and sight of a Mannor, is waste, 40 Ed. 3. fol. 15. B.

Cutting of Hazels, which do not grow under great Trees, but in a quarter of Wood, is waste, 40 Ed. 3. fol. 25. B. 10 H. 7. fol. 2. the same. Fitzh. fol. 6. E. th. same.

Cutting under-wood is no waste; but barking them, that they do not grow again, is waste, 42 Ed. 3. fol. 6.

A man cannot assign waste in cutting young Oakes, that are of the age of 7 or 8 years, 13 H. 5. fol. 21. by Bryan, contrary before the time of H. 1.

Cutting within the age of eight and ten years of young Oaks, is waste, because they can never come to be Timber, Ed. 46. tit. 13. Z Young

Young Oaks of the age of twenty years, and under, Farmer may cut, and it is not waste; but *Martin* saith, that in a Country where there is plenty of wood. If Oaks of the age of twenty years, they cannot be cut as seasonable for House-boor; but, by *Martin*, Wranglands of the age of twenty years, which can never be Timber, cutting them for firings is no waste, 11 H. 6. fol. 1. By the Court.

Oaks of the age of sixteen years may be cut for Fuel, for that they are but falling Woods, 22 H. 6. fol. 33. by *Newton*.

4 Ed. 3. fol. 22. *Itin. Darby, fol.* If a man make Waste in a Mill, and cut Trees to mend it; this cutting is Waste.

12 Ed. 3. tit. 28. *Waste*, He cannot cut the Trees to cover the Houses, and sell away the old Timber.

Cutting small Oaks, and selling them away is waste; but a Farmer may cut them to make Reparations upon the same Land lett, but not to repair other Land; cutting young Ashes within the age of ten years seasonable, for House-boor is no Waste; but where they are of the age of twenty years, and able to make great Timber, is Waste, 7 H. 6. fol. 40.

Termor may take small Trees, Ashes, and such like, which are seasonable, which have been used to be felled every 20, 16, 14, or 12 years, and is no Waste: For it is called falling Wood, 4 Ed. 6. tit. 136.

Where Oaks are cut, and suffering the Sprigs to be eaten with Beasts, that they will not be Timber afterwards, but Shrubs, it is Waste, 11 H. 6. fol. 1.

One may assign waste in a hundred Oaks cut, and also in the stocks of the same Oaks, that is in the Spring growing upon the same Oaks; for if so be they were saved, they would be Timber; and for that they are not, it is Waste, 22 H. 6. fol. 14.

Cutting green wood, where there is dead wood for firing, is Waste, 23 Ed. 3. tit. 32.

Cutting Sances, is no Waste, 8 Ed. 2. tit. 111.

Cutting wood to burn where there is dead wood sufficient, is waste; but not waste to cut seasonable wood, which is used to be cut every twenty years, or within the time. *Fitz. fol. 99. M.*

Cutting white Thorn is Waste, and not black Thorn;
46 Ed. 3. fol. 17. but see 9 H. 6. fol. 10.

What waste in Gardens is punishable; and what not.

VHere Apple-Trees fall with great Winde, and after become dry, the Termors may take them for Fuel, 7 H. 6. fol. 40.

Cutting Apple-Trees which have fallen upon Props, and bear Fruit, is waste, 44 Ed. 3. fol. 44.

Cutting Apple-Trees and Plumb-Trees, is Waste, 10 H. 7. fol. 2.

If a house and wood are lett, he cannot cut Apple-Trees to amend the House if he have Wood; for if he do, it is waste, time Ed. 1. Tit. 122.

For what waste a Termor shall be punished; and for what not.

IF a Termor for life make Waste, and after surrender his Estate, and the Lessor accept it, the Termor shall not be punished for that waste, *Natura brevium*, fol. 36. B. 14 H. 8. fol. 111. by Pollard; but see 8 H. 5. fol. 8.

If a stranger make waste upon the Land, which one holds for life or for years, the Farmer shall be punished for this Waste, 5 H. 4. fol. 3. and 3 H. 6 fol. 17. B.

If a Lessor himself make waste, the Termors shall not be punished for that Waste, 5 H. 4. fol. 3.

If a stranger make Waste upon the Land in ward, the Guardian in Socage shall not be punished for this Waste: *Fitzh.* fol. 60. G.

Where Waste is made by Enemies, or Tempest, the Termor is not punishable for his Waste. *Fitzh.* fol. 59. L.

If a Termor make waste before that he attorn, he shall not be punished for that Waste, 48 Ed. 3. fol. 15.

If a Lessor covenant to deliver great Timber of the said Land to repair the House lett, and will not; and for lack of that, the Lessee will not repair that, but suffers the House to fall, he is punishable for this Waste; but if the great Timber were to be taken from other Lands, and is not delivered; this excuses him, and he is not punishable for this Waste, 44 Ed. 3. fol. 21.

If Land be lett to a lone Woman, and she takes a Husband which makes waste, and dies, she shall be punished for that wast; but if the Lease were made to the Husband and his Wife, and he makes the Waste and dies, for that Waste she shall not be punished, *Nat. brev. fol. 36. B. 3 E. 3. Tit. 20.*

Register, fol. 72. Against the Husband and the Wife, summoned B. and E. his Wife, that they be, &c. to shew why they made waste, &c. of Lands, &c. which they held for the Dower of the said E.

Register, fol. 74. Against a Woman, Summon'd B, which was the Wife of C, that she be, &c. to shew wherefore, &c. of the Houses, &c. which she holds for her life, by a Lease, which D. thereof made to the said B, and the aforesaid C, sometime her Husband, and to the Heirs of the said C.

14 H. fol. 12. When the term of years is ended, the Writ shall be, which he held; and where it is during the term, shall be, which he holdeth.

40 Ed. 3. fol. 23. Where the term passes, and where the Infant is of full age, it shall be against the Guardian and Termor, which they held.

41 Ed. 3. fol. 23. Against the Tenant for life, the form is, which he holds for term of his life, 40 Ed. 3. fol. 33. 14 H. 6. fol. 14. the same.

46 Ed. 3. fol. 25. If a Lease be made to one for life, which grants over his Estate, the Writ shall say, (which he holds) but where a Lease is made for anothers life, and he for whose life, dies, the Writ shall say, (he held) by *Finchden*, and not denied. And if a Lease be made to a Woman for years, which takes a husband before the term ended, which makes Waste, and the Wife dies; Waste lies against the Husband for the occupation. See *Brook, Tit. 47* The same Law where a Lease was to the woman for life, which takes a Husband, &c.

Nat. brev. fol. 36. If Land be lett to a single woman, and she takes a Husband, and the Husband makes waste, and dies, the Wife shall answer for this waste; but otherwise it is, where the Land is lett to the Husband and his Wife, for term of their two lives, and the Husband makes waste, and dies; the wife shall not answer for that waste, for it was the folly of the Lessor to lett that to him, 15 H. 3. *Tit. 133. Fitzh.*

Time of Ed. 1. tit. 128. *Fitzh.* If a woman, tenant for life, takes a Husband, which makes waste, and dies; it seems, that the woman shall be charged of that, for that, that the woman agreed to the Lease after the death of her husband, 10 E. 3. tit. 17. and tit. 21. & 133.

23 H. 8. tit. 138. If a single woman, tenant for life, takes a husband, which makes waste, and dies, action of waste lies against the Wife; but if a Lease be made to the Husband and the Wife, and the Husband makes waste, and dies; it is otherwise, and held there for Law, that if the Termor makes waste, and make his Executors, and dies, the action of waste is gone; for it is as a Trespass which is a personal Action which dies with the person; but if the Executors make the waste, it lies against them.

Fitzh. fol. 56. A. If a Guardian in Knight-Service grant over his Estate, and the Grantee makes waste, the writ of Waste shall be brought against the Grantee, and not against the Guardian; but if the Guardian make waste, and after grant over his Estate, waste lies against the Guardian, and not against the Grantee; and so where tenant for life, or for years makes waste, and grants over his Estate, the writ of waste lies against him that made the waste; but waste shall be alwayes brought against tenant in Dower, or tenant by the Curtesie, notwithstanding their Grant over. *Fitzh. 550. Regist. r. fol. 72.*

40 Ed. 3. tit. 33. Waste against Tenant for life; it is no plea to say, That he had nothing in the Tenancy, Day of the writ purchased, nor ever after; for if he hath made waste, and granted his Estate over, yet he shall answer for his waste; and though the writ be (which he holdeth) it is good: And by *Finchden*, waste is a writ of Trespass in his nature, and cannot be brought but against him which is Tenant when the waste was made, unless he be Tenant by the Curtesie, or Tenant in Dower, 41 Ed. 3. fol. 23. and 44 E. 3. fol. 21.

Fitzh. 55. C. In waste against tenant in Dower, the Statute need not be rehearsed, nor in waste against Guardian, but against tenant for life or for years, by demise shall be rehearsed.

Fitzh. 56. C. In waste against Tenant by the Curtesie, without rehearsing the Statute, that is, without, when of the Common-Council of our Kingdom of *England*, it is good,

good, and so it seems it is, if it be rehearsed. Every Writ of waste is to the dis-inheriting of him which brought the Writ; and for that it shall be shewed in the Writ, though the Plaintiff hath Reversion by the Assignment of the Lessor.

Fitzh. 58. *A. B. C. D. E. Register* 74. & 75. And the Writ of waste is, of me, that is, the Plaintiff holds, and for that it is shewed, by Assignment, as 46 *Ed. 3. fol. 25.* Waste by the Assignment of the Defendant; It ought to say, that you have it by Assignment; and the Plaintiff shews, that he had a Feoffment and Livery, saving the term, and good. Also it shall be shewed in the writ of whose demise the Defendant hath it, that is, as by the demise of another. *Fitzh.* 57 *A B C D E. Register* 745. That is, for the Plaintiff to recover the place wasted, 34 *Hen. 6. fol. 6. Tit. Waste. Brook* 121.

11 *H. 6. fol. 8.* If waste, or (*Quare ejecit infra terminum*) be brought, and the term end, hanging the Writ, the Writ shall not abate; for though he cannot recover the place wasted, he shall recover Damages. Also if waste be brought (*Quas tenuit*) after the Term ended, he shall recover Damages, though he do not recover the place wasted. So where one which holds for term of anothers life makes waste, and after he for whose life dies, the Lessor shall recover damages, though he do not recover the place wasted. *Fitzh.* 60.

10 *H. 6. fol. 8.* Waste, supposed, by the Writ, that the Defendant hath that by Legacy of one such Ancestor of the Plaintiff, for that, that the Custom was so, that he might devise, and good.

8 *Ed. 2. tit. 112.* Waste was found in a House which was principal, and the Plaintiff by award recovered all the house.

15 *H. 7. fol. 11.* By *Fineux*, where a Farmer of a Wood makes waste in one Corner, this only is forfeited; but if it be in divers places of the wood, all is forfeited, and the Plots in this also, 15 *Ed. 3. Tit. 108.* See the time of *Ed. 1. tit. 122.* Waste against Guardian.

4 *Ed. 6. tit. 136.* By *Bromley*, If a man make Waste in hedge rows, which inclose a Pasture, nothing shall be recovered but the place wasted, that is, the Circuit of the Root, and not the whole Pasture, 41 *Ed. 3. tit. 24. E.*

Fitzh.

Fitzh. 60. 7. If a Guardian make Waste, and the Heir being within age, bring a Writ of Waste; by this the Guardian shall lose the Wardship, and over that his Damages to as much as the Waste amounts unto. But if the Heir were of full age, that he looseth not the Wardship, then he ought to recover treble Damages, for that, that he cannot loose the Wardship, according to the Statute of Gloucester.

43 Ed. 3. fol. 6. Waste, it is a good Plea in Bar, that the House fell by Tempest; and if he Covenant to repair that, it is no plea in Covenant.

49 Ed. 3. fol. 1. Waste, it is a good plea, that at the time of the Lease, that the house was weak, and that the great Timbers were rotten, that it fell; for if any the principal Timbers were rotten, it is no Waste, though he Covenant to the repair it.

8 H. 6. fol. 57. Waste, it is a good Plea, that the Plaintiff hath entred into the Land; before which entry, no waste made.

8 H. 5. fol. 8. Waste, it is a good plea, that he surrendred, to which the Plaintiff agreed, before that no waste made.

9 H. 6. fol. 11. Waste by the heir is a good plea, that the Plaintiff hath an elder Brother, which survived the Plaintiff, and after died, after whose death no Waste made, and a good plea.

44 Ed. 3. fol. 27. Waste against a Guardian in Knightservice, who saith, that after the death of the Ancestor, J. F. (abated) against whom the Defendant recovered in a Writ of Ward, after which recovery no waste made, and it is a good plea.

12 H. 4. fol. 6. Waste is a good plea, that that fell before the Lease.

19 H. 6. fol. 66. Waste, that he suffered the House to be uncovered, by which the great Timber rotted; it is no plea to say, Day of the Writ purchased, the house was sufficiently repaired; but to say, After the waste, and before the Writ purchased, it was sufficiently repaired.

8 H. 6. fol. 61. Waste, held where Land is given to the husband and the wife, and the heirs of the wife, and the husband discontinues in Fee, and takes an estate for life, and the wife dies, the heir of the wife shall not have waste, before that he hath purged the discontinuance, *8 H. 6. fol. 63.*

Fitzh. 59. E. The heir within age shall have a Writ of Waste against a Guardian in Socage, 2 Ed. 2. *Fitzh.* the same, *Nat. Bre.* 58. If a Guardian in Socage make waste, the heir when he cometh to full age, shall have an Action of Account for that.

14 Ed. 3. tit. 107. It seems, that Waste lies against a Guardian in Socage, tit. 100. *Fitzh.*

Fitzh. 58. H. There is a Writ of Waste in the Register, for him in Reversion against Tenant by *Elegit*, which hath the Lands in Execution, but it seems he shall not have Waste, for that, that he may have a *Venire facias* to account; and where the waste shall be recompensed in the debt, but by the Action of waste he shall recover treble damages; which he shall not have in the Account.

Nat. Brev. fol. 37. Waste doth not lie against Tenant by *Elegit*, nor against Tenant by Statute-Merchant; but if they make waste, account lies. 42 Ed. 2. tit. 11. fol. If a Lease be made to one to use it in the best way that he can, now he cannot make waste.

17 E. 3. tit. 101. If a Lease be made to one, so that he may make his profit of that, &c. yet it shall not be intended, such as common right gives him; for he cannot pull down a house and make waste.

Action upon the Case.

*Action upon the Case in Court-Baron, and other Courts;
And first for Slander.*

IT lies for calling one Traytor, Felon, and Robber of the Kings people; and that is to be noted in *Justice Seatons Case*, 30 *Aff.* 19.

22 Book of *Aff.* 43. Presentment, That one is a common Malefactor, or a common Thief, or a common Barretor, is not certain, and it is not good: and so it is thought by divers, to say that one is a common Malefactor, or a common Barretor; this Action doth not lie, for it is too general.

2 Ed. 4. fol. 5. For calling one Villain, it seems that Action upon the Case doth not lie.

17 Ed. 4. f. 3. Saith there, That an Action upon the Case doth not lie for calling the Plaintiff Villain, without more.

Nat.

Nat. Breu. fol. 55. There are two defamations or slanders, the one spiritual, the other temporal : temporal, where he cannot be punished by the Spiritual Law ; As to say, That the Plaintiff is outlawed of Murder, Conspiracy, Forging of Deeds, &c.

30 H.8. tit. 104. Lyeth for calling the Plaintiff, Perjured Man ; for now Perjury is punishable in our Law, by the Statute 5 Eliz. Yet inquire, for that it is not, in what Court or cause he was perjured.

Register, fol. 54. For calling the Plaintiff Adulterer, or Usurer, the Detendant shall be punished in the Spiritual Court, and there doth not lie an Action upon the Case.

4th Ed.6. tit. 112. Lies for calling the Plaintiff, a False Justice of Peace.

27 H.8. fol. 13. It lies for calling the Plaintiff Thief, and indicting him of Felony : And note, the words of the Writ are, That he is hurt in his goods, his name, fame and condition.

26 H.8. f. 11. For calling the Plaintiff Thief, and saying, That he hath stolln sheep of one J. S, it lies.

17 Ed. 4. f. 4. Lies for writing slander in a Paper, by which he durst not go about his business.

27 H.8. f. 17. For calling the Plaintiff Heretick, and one of a new learning, it doth not lie.

Book of Entries, f. 12. A President there, in an Action of the Case, for calling the Plaintiff, False Man : But enquire if it lies, for there was not the Exception taken : and there is, there, another President, for calling the Plaintiff Thief, and saying, He hath received 20 l. value of his goods.

In the Book of Entries, f. 13. there is another President of an Action upon the Case, That a certain Letter or Bill, with divers slandering words, and defaming, in the said Bill or Letter, he caused to be writ.

It was the Opinion in the Kings Bench, That for calling the Plaintiff, Rogue, Cozener, or Villain, Action upon the Case doth not lie ; for you shall not have Action upon the Case for every word of anger reproachful ; for it is said, that *Scandalum* is a Greek word, which goes to the overthrow of one ; and for that it hath been thought, that if the words do tend to the destruction of the Plaintiff, that he shall have an Action upon the Case, and for that where the

the Defendant saith, that the Plaintiff was infected with the Robbery of *Jerom H.* and smells of it. The Opinion was, That Action upon the Case for those words doth not lie.

Adjudged in *London*. That an Action upon the Case lies, brought by *Huson*, Inholder, for that the Defendant said falsely, That he had buried divers which died of the Plague in his house, in his Garden, when the Plague was not in his house; by which his Guests refused to come to his house.

Also it was the Opinion of the Kings Bench, That an Action upon the Case doth not lie for calling the Plaintiff False Knave.

Essex, in the Kings Bench, *Roll. 149. Hill. Term, 26. Eliz. Rich. Kerby*, Gentleman, brought his Action upon the Case against *John Walker*, for saying these words, that is, Thou *Kerby* art a false cozening Knave, and hast falsely cozened my two Kinsmen, *William Walker*, and *Thomas Walker*, Brother of the said *William*, of Lands worth 6000 l. the Mannor of *Pyton* in *Remshold*, and I will bring thee to stand upon the Pillory for that. And adjudged, That the Action doth not lie, and the Jury taxed the damages to a 100 l; and upon that adjudged, That the action did not lie.

London, *Thomas Gittens*, Carpenter, *Anno 26.* brought his Action upon the Case against *James Redburne* in the Exchequer, for saying these words, *Thomas Gittens* is a cozening Knave, and I have proved him a cozening Knave before my Lord Mayor of *London*, for selling a *Saphir* for a *Diamond*, and adjudged, That it doth not lie.

Action upon the Case upon a Warrant of a thing sold, and upon knowledg without warrant.

Action upon the Case lies for selling corrupt wine, and the Writ is, knowing it to be corrupt, and warrant is not to purpose; for it is ordained, That none shall sell corrupt victual, if he know it; and so the Issue was, Whether it were good, and not corrupt. An Action upon the Case lies for selling corrupt victual, if he know it, and so the Issue was, Whether it were good, and not corrupt; an Action upon the Case lies for selling so much cloth, and not well fulled, where he warrants it, 11 H. 6. f. 22.

Note

Note the use, where *Meazel Porks* are sold at *Rumford*, to have restitution of his Money if they prove *Measel*, 9 H. 6. fol. 53.

7 H. 4. fol. 16. *Action upon the Case* lies for selling corrupt Wine, knowing, &c. The Defendant saith, That he tasted it, and accepted it for good : The Plaintiff saith, He accepted it for good upon condition, if he liked it after it came to his house, &c.

19 H. 6. fol. 49. If one sell wine without warranty, if that be corrupt, *Action upon the Case* lies, for it is prohibited by Law, 7 H. 4. fol. 76.

13 H. 4. fol. 2. If one sell to me a horse apparent blinde, and warrant him sound of all his members, and I see him, I shall have no Deceit, for that I might see it. Otherwise it is, of a disease within his body; there upon the Warranty I shall have Deceit. But if one sell a blind horse, and warrant him to one that doth not see him, Deceit lies. If one sells to me wine, and I bid my Servant to taste it, deceit doth not lie if it be corrupt, for that he hath tasted it.

Fitzh. 93. C. If a man sell a horse to another, and warrant him to be sound and good, &c. If the horse be lame or diseased that he cannot work, *Action upon the Case* lies. And so if one bargain and sell to one certain pipes of wine, and warrant them to be good, and they are corrupt, *Action upon the Case* lies against him : And by *Fitzh.* it behoveth that he warrant the horse, and also the wine ; otherwise, *Action upon the Case* doth not lie. Inquire of the wine,

Fitzh. 98. K. If a man sell clothes, and warrant them to be of a certain length ; if they be not of such a length, he which buyes them shall have a Writ of Deceit against him ; but if the warranty be made after the bargain, it is otherwise.

11 Ed. 4. fol. 7. Where one sells Clothes, and warrants them to be of such a length, and they are not, deceit lies ; for he could not know but by measure, and he believed him ; but it is said, If he warrants seed to grow, that is in God, or that a horse shall carry one ten Miles in two hours which is to come, or warrant Cloth to be Murrey where it is blue, and see it, Deceit doth not lie ; but if he warrant Cloth to be of such a Countrey, when it is not, deceit lies.

11 R.2. *Statham*, If one sell a horse, knowing him to be lame, and warrant him to be sound, the Defendant saith, that he sold him sound, without that, that he warranted him.

31 H.6. fol. 11. *Statham*, If one sell a horse knowing him to be lame, and do not warrant him, Action upon the Case doth not lie.

20 H.6. fol. 37. By *Pastor*, and not denied, If a man sell a horse which hath a disease, the Buyer may have Action upon the Case, that the defendant knowing his horse to be diseased, sold him, though he do not warrant him to be sound; notwithstanding it seems otherwise, where the buyer may see the disease by looking upon him; as, a spavin; a spavin, or an eye.

9 H. 7. fol. 12. If one sell a thing, and warrant, that at the same time he may have deceit, notwithstanding that he hath not paid the money, for that, that he might have debt at his pleasure for the Money.

Action upon the Case for Cosenage and deceiving of one.

Action upon the Case was brought against W. C, for that the Defendant took eight Oxen of J. S, and offered to sell them to the Plaintiff, as his proper Goods, and by this Falshy the Plaintiff trusting to the honesty of the Defendant, bought them, and paid seven pounds, and after the Owner took the Oxen, by which the Plaintiff lost the Oxen by this falsity, to his wrong and damages, &c. Book of Ass. 8.

20 H.6. fol. 25. Deceit was brought, for that the Defendant was his Attorney, and ought to have taken an Obligation of J. S. for a hundred pounds of the Plaintiff, and he took it to himself; and it is said, he ought to declare, that he took a Fee of him: and so lieth an Action upon the Case for such Cosenage and deceits: which note.

9 E.4. fol. 12. By *Littleton*, Debt against two, as Executors, and one is no Executor, nor never administrated, &c. yet he acknowledged the Action, and the other made default, the Plaintiff recovers, the other hath no remedy but an Action of deceit; that is, upon the Case, for he is party to the Judgment.

42 Ed.3. f. 14. Conspiracy in the nature of an Action upon

upon the Case was brought against three, which conspired to make one of them Attorney for the Plaintiff, and to plead as they pleased, and so to cause the Plaintiff to be bound a Villain to one of the Defendants, and it lies, 26 Book of Ass. 62.

47 Ed.3. f.15. Action upon the Case lies in nature of a Conspiracy, for that the Defendant procured and caused a false Office to be found, by which the Mannor of the Plaintiff was seised into the Kings hands, *Tit. Conspiracy, 8. B.* See 27 Book of Assises, 73. *Fitzh. 114 D.*

43 Ed.3. fol. 20, Deceit, for that the Defendant procures, J. S. to bring a *Formedon* against the Plaintiff by Collusion, by which he was travelld by the Suit, and brought a *Writ of Warrantia Chartæ* in defence of that, and it lies.

Where an Action upon the Case lies for a thing pawned, and for a thing borrowed; and where not.

Action upon the Case doth not lie, for riding his horse which he had hired of the Plaintiff, which was weary, so that he had no service of him by six Dayes; for weariness is natural after labour; and for that he ought to shew some fault in the Defendant, if he will have that Action.

Fitzh. 86. C. If one borrow certain money, and deliver certain of his Goods in pawn for it, and he offers the Money to the party again, and prays delivery of the pawn, and the other refuse it, he shall have an Action upon the Case for the Pawn.

40 Ed.3. f.6. If I borrow a Horse, and he dies suddenly, and not by my default, I shall not be charged to restore a dead Horse.

Doff. & Student, fol. 29. If one use the thing borrowed, in other manner then to what it was borrowed, he shall be charged, if they perish in any manner: but if he use them as they were lent, if they perish not through his default which borrowed them, the owner shall bear the loss.

Doff. & Student, fol. 128. If a man borrow a Horse, and puts him in a house which falls upon him, if it were strong and not feeble to fall, he shall be discharged; otherwise it is, if it were weak.

21 Ed. 4. Tit. 42. Detinue of Goods, Br. Detinue of a horse, it is a good Plea, That at the time of the Delivery, the horse was sick of divers Diseases, as Bots, Glanders, and such like, by which he dyed at D. such a day and year, before request made by the Plaintiff to re-deliver him, and it is a good Plea; contrary, if he do not say, it was before request; for if it were after request, that had been the folly of the Defendant.

Where Action upon the Case lies, or Detinue, and where Trespass; and where not.

IF the Lessor will not discharge his Farmer of a Tenth, or of a Fifteenth, or of Quit-Rent, which are due by the Lessor, and the Farmer pay it, yet he cannot keep that back in the payment of his Rent, but shall have an Action upon the Case, 21 H 7. f. 12.

2 H. 4. f. 3. If the Testator hath my Goods amongst his Goods, and dies, Trespass by force and Arms doth not lie against his Executors for these Goods, but Detinue in an Action upon the Case: and if one find my Goods, Trespass doth not lie against him, but Detinue, or an Action upon the Case.

12 Ed. 4. f. 10. If one take my Beasts, and another take them from him, I shall not have Trespass against the second, but Action upon the Case, 21 Ed. 4. fol. 89. the same.

13 Ed. 4. fol. 9. If Goods be delivered to one, he cannot be a Trespasser of them, but a Detinue lies of them.

18 Ed. 4. f. 28. Where one hath goods by my Delivery, I shall not have Trespass, but Action upon the Case, and Count of mis-using of them.

46 Ed. 3. f. 15. Trespass, if the Defendant saith, That the Goods were thrown into the Sea by a Tempest, for safeguard of the Ship, and he took them, Trespass doth not lie against him, for that they were not taken out of the possession of the Plaintiff.

21 H. 7. f. 39. By *Fineux* and *Tremail*, if I deliver goods to a man, and he gives them, or sells them to a stranger, if the stranger takes them without delivery, I shall have a Writ of Trespass; but if he makes delivery of them to the stranger, I shall have no Trespass.

Littleton,

Littleton, fol. 14. If I deliver to one my Sheep to dung his Land, or my Oxen to plow his Land, and he kills my Beasts, I shall have my trespass; that is to be intended trespass upon the Case, and not trespass by force of Arms. See 2 Ed. f. 5. *In parco fra 70.*

18 Ed. 4. fol. 23. In Action upon the Case, where he counts of mis-using of a thing delivered to the Defendant, or converting it to his own use, is to recover damages for the thing; and where one will recover the thing it self, he shall have Detinue.

7 Ed. 4. f. 4. Where one comes to Goods lawfully, as by delivery, Trespass doth not lie against him; but Detinue.

12 E. 4. fol. 8. A man shall not have trespass general, that is, by force of Arms, against him that misuses a License in Deed, as to ride a horse twenty miles, where he borrowed the horse but for ten mile; but he shall have an Action upon the Case. Contrary, if one mis-use a License in Law, as to enter into a Tavern, there he shall have Trespass by force of Arms, 21 Ed. 4. f. 76. the same.

18 Ed. 4. f. 2. If my Bayliff kill my Kine, Trespass by force of arms doth not lie, but an Action upon the Case.

21 Ed. 4. f. 22. Action upon the Case lies against J. S. Officer of the Kings Bench, for that, that the Plaintiff affirmed a Plaint of Debt against J. D. in London, the said J. S. purchased a *Superfedas* of priviledg for J. D. supposing that he was his Servant.

2 H. 4. fol. 19. Action upon the Case by the Neighbour of a fire, lies, that according to the Law and Custome of the Realm of *England*, &c. That every one shall keep his fire, lest by his fire any loss should come to his Neighbours.

42 Ed. 3. fol. 11. Action upon the Case lies, Where throughout the whole Realm of *England*, it was a custome, That the host should keep the Goods that their Guests brought into their house, if it be a common Inne, and should be charged, though they were not delivered, and though that the Key of his Chamber were delivered to the Guest, 22 H. 6. f. 24. 2 H. 4. f. 8. 14 H. 4. f. 43. *Fitzh. f. 94. S. 11 H. 4. f. 43.*

28 H. 6. f. 7. Action upon the Case lies, for that, that the Dog of the Defendant did bite the Sheep of the Plaintiff, he

he knowing his dogg to be accustomed to worry Sheep, and it is no Plea for the Defendant, that he did know, by *Moyl*; but he ought to answer, that he did not worry the Sheep.

41 Ed. 3. fol. 24. If a man ought to grinde his Corn at the Mill or the Defendant without paying Tole, and the Miller take Tole, Trespass by force of Arms lies; and so it is said, where he takes more Tole than he ought: but if one hinder people to come to my Market, Action upon the Case lies.

13 H. 4. f. 12. Action upon the Case lies, for that, that he hath a Leet in the Mannor, Eyer, and Court, from three weeks, &c. there hath the Defendant held Court within the same Mannor, and hath distrained his Tenants by great and often distress, and hath impoverisht them, that they cannot pay their Rent, *Fitzh. 94. E.* the same.

33 H. 6. fol. 16. Action upon the Case lies where his Steward comes to hold a Leet, and the Defendant disturbs him.

11 H. 4. f. 45. School-Master shall not have an Action of the Case against another for setting up another School, that he cannot have so many Schollars as he had before; for the profession is free, and is for the Commonwealth: the same Law of erecting a Mill upon his own Land, though the Plaintiff's Tole be diminished, he shall not have an Action upon the Case, 22 H. 6. f. 14. *Mill levied.*

48 Ed. 3. f. 25. Action upon the Case lies against Tenant at will which makes waste, or burning a house willingly, and not an Action of waste, *Tit. 14. 21 H. 6. f. 43.*

7 H. 4. f. 8. Action upon the Case lies, for that, that the Defendant ought to repair a certain wall upon the Thames, and doth it not, by which the Land of the Plaintiff is drowned, *Fitzh. 93. E.* the same.

7 H. 4. fol. 16. Account doth not lie against a Bayliff, or Servant for driving his Plow; in which default the Beasts perished; but an Action upon the Case lies for his negligence, for default of good keeping.

2 H. 7. f. 11. Action upon the Case for negligent keeping my Sheep; and the same Law for negligent carrying my Pots or Glasses; and where one keeps my Horse, and starves him for meat.

7 H. 4. f. 45. Action upon the Case lies by the Lord of B. against

against him which bought and sold in the Market of B. without paying Tole; and though the Writ was (*Toll-nam asportavit*) yet it was also, and he denied to pay it; and for that, it was awarded good; for the first words are void, and the last sufficient.

11 H.4. f.25. If a Way belonging, &c. be stopped, Assise of Nufance lies; but for stopping of a Way in grosse, he shall not have an Assise of Nufance, but Action upon the Case.

14 H.8. f. the last, Where part of a River or Way is stoppt which is narrow, Action upon the Case lies; and where the whole, an Assise of Nufance; an Action upon the Case lies, where he hath no other remedy.

11 Ed.4. f.23. It seems there, that a good pleader may frame Actions upon the Case for many matters which are in the Chancery.

26 Book of Ass. 79. Action of the Case lies against the Sheriff which quashed an Essoyn erroneously; for false Judgment doth not lie, unless it were Judgment of the Suitors.

Fitzh. 114. D. If one person, of his malice, and by his false imagination, labour and cause another to be indicted falsely, the party which is so indicted, shall not have a Writ of conspiracy; but an Action upon the Case against him which caused him to be so indicted.

Fitzh. 95. D. If one play with others at Dice, and he hath false Dice, and wins Money of others with false Dice; Action upon the Case lies for this deceit.

13 H.6. fol. 26. Action upon the Case lies, Where one hath a Water-course by Prescription to Brew, and Water Beasts, there hath the Defendant made Lime-Pits, &c. *Book of Ass.* 3. See Nufance for *Lever Tozaille* to the annoyance of the Freehold.

Action upon the Case for mis-using an Officer in his Office.

Action upon the Case lies against a Sheriff, where the Plaintiff hath Charter of Exception, that he shall be impannelled upon no Jury, and shews that to the Sheriff; and yet he impannels him, 18 H.8. f. 5.

21 H.7. fol. 22. By King, Where the Sheriff serves a *Pieri facias*, and levies the summe, and doth not return

the Writ, the party may have trespass against him for leav-
ing that : The same Law, if, by a *Capias*, the Sheriff
arrest one, and doth not return the Writ, false imprison-
ment lies, 20 H. 7. f. 13. 21 H. tit. 8. B.

6 H. 6. Tit. 9. Trespass upon the Case was brought
against an Escheator; because he found (an Officer) that
the party held of J. S. and he returned (an Officer) that
the Party held the moiety of the King in chief; and by the
Court it lies: for he and the Sheriff are Officers of Re-
cord, but not Justices of Record; for there it was agreed,
That an Action doth not lie against a Justice of Record,
9 H. 6. f. 60. the same, 12 H. 6. f. 3.

47 Ed. 3. f. 15. Conspiracy in the nature of an Action
upon the Case, was brought for that, that the Defendant
procured, and caused a false Office to be found, by which
the Mannor was seized into the Kings hands, and he sued
that out to the Losse, &c.

21 Ed. 4. fol. 43. If the Sheriff upon a Writ of second
deliverance, makes deliverance to the Plaintiff of the Dis-
tress, and will not return the Writ, so that the Defen-
dant may constrain the Plaintiff to come and count, so that
he may avow, the Defendant shall have remedy against the
Sheriff; and this seems, by an Action upon the Case.

8 H. 6. fol. 1. Where in *Præcipe*, the Sheriff returns a
Summons, where he was not summoned, by which he loses
his Land, Action upon the Case lies against the Sheriff.
See that deceit lies.

19 H. 6. fol. 29. Action upon the Case lies against the
Sheriff's Deputy, for imbezelling a Writ of *Habeas Cor-
pora*; and it lies as well against him that stirs up another
to do it, as against a doer.

16 H. 6. Tit. 38. by *Passon*, If the Sheriff return a
man sufficient, upon a *Venire facias*, by which the next
Sheriff is charged of the Issues, he shall have an Action
upon the Case against the Predecessor; for he cannot re-
turn *Nihil* against the Return of his Predecessor.

1 H. 6. fol. 1. *Præcipe*, Where the Tenant loseth his
Land by default upon a false Return of the Sheriff, as he
returns the Tenant summoned, where he was not, deceit
lies: but if the Summoners were dead, Action upon the
Case lies.

38 Book of Ass. 13. Action upon the Case lies against
the

the Sheriff where he made a Precèpt to one, which was no Bayliff of the Franchise, which returns a Jury, by which this was quash'd, to the damages, &c.

41 *Book of Ass.* 12. Deceit in the nature of an Action upon the Case, lies against the Sheriff, for that, that one was outlawed at his Suit, and that the Defendant then Sheriff, would not return the Writ, to the loss, &c.

30 *Book of Ass.* 5. Where the Bayliff of a Franchise returns a Pannel to the Sheriff, and returns another Pannel of himself, this shall not be oured at the request of the Bayliff, but they shall have their Action of the Case against the Sheriff.

11 H.8. f.18. If a Lawyer be retained to look over Evidence, and after he discovers that to another person, by which, &c. Action upon the Case lies against him; Contrary, if he shew him his Evidence, and do not retain him.

15 H.7. fol. 14. By *Fro.* Where an Attorney appears for a man without authority, and Imparls where he might have pleaded Mis-naming, and by this hath lost the advantage of this plea; Action upon the Case lies against him, for that, that he appears without authority.

9 Ed. 4. Tit. 118. B. Where a Guardian pleads falsly for an Infant, or vouches one which is not sufficient to render in value to the Infant, the Infant shall have an Action of Deceit.

Action upon the Case against Executors.

Action upon the Case was brought against the Executors of J. D. and count that J. S. bought things of the Plaintiff, and J. D. undertook, if he paid not at the day, he would, and counts that he had Assets sufficient to pay all his Debts and Legacies, and sufficient to content him, and it lies. Note, J. D. did not make the bargain and contract, but undertook for J. S.; and upon Assumpsit, he could not wage his Law, 12 H.8. f.12.

27 H.8. fol. 29. Where *Tatam* was in Execution, the defendant saith, if he would discharge him out of the Execution, that such a day he would pay him, if *Tatam* could not. The same Law, if he saith to a Baker, Deliver *Tatam* so

much Bread, and if he do not pay you such a day, I will pay you; Debt doth not lie against me upon this promise, but an Action upon the Case.

27 H.8. fol.27. It seems, if a man be endebred upon a simple Contract, leaves Assets, and dies, the Action upon the Case doth not lie against the Executors, for the Testator might have waged his Law; but he shall have a *Quous minus* in the Exchequer.

15 Ed. 4. fol. 15. Where the Testator may wage his Law, as in debt of Contract made by him, and borrowed, Debt doth not lie against his Executor.

Plow.Com. f. 181. Action upon the Case was brought by Richard Norwood, against the Executor of *Tho. Gray*, and counts, that the Testator, in consideration of forty shillings to him paid, undertook to deliver to the Plaintiff certain Corn at a certain day, and did not; and counts, that the Goods and Chattels; of the said *Tho. Gray* the Testator at the time of his death, were sufficient to satisfy, as well all the debts which the said *Tho. Gray* did owe to any person, or to any persons, at the time of his death, as to satisfy the Plaintiff for the said forty shillings; and adjudg, that this Action lies against the Executors. And if an Action upon the Case be brought against Executors upon a simple Contract, if they have no Assets, but to pay Specialties, they may plead that, and shall not be charged.

4 Ed.3. cap. 7. is, That an Executor shall have Trespass of Goods carried away in the life of the Testator, or before: an action personal dies with the person.

7 H.4. f.8. Executors shall have *Ejectione firme* by the equity of the Statute.

23 H.8. Tit. 138. Waste; If a Termor make waste, and makes Executors, and dies, the Action of Waste is gone, for it doth not lie against Executors, but for waste made by them.

Action upon the Case. for not performing his promise, and Assumpsit. and the place, and how, and where it shall be Traversed.

WHere a man makes a promise, or an Assumption to do a thing, and doth it not, and there is no speciality of that promise; he shall have an Action upon the Case, and

and not a Covenant, for that it was not by Specialty; as, for a hundred pound paid, the Defendant bargained, and sold his Land to the Plaintiff, and promised to enfeof him, and enfeofs another person, he shall have Deceit, or Action upon the Case, 20 H. 6. f. 36.

3 H. 7. f. 14. Action upon the Case, and Counts, That the Defendant for 10 l. took upon him to labour for the Plaintiff to J. S., that J. S. should let the Mannor of D. to him, and Counts, That the Defendant hath taken that to himself, the Action lies: So if he undertake for 10 l. paid, to enfeof him, and enfeofs another; for this mis-doing, an Action of the Case lieth, 2 H. 7. f. 12. the same.

48 Ed. 3. f. 6. Action of the Case lies against him which took upon him to cure the Plaintiff of a wound, and did not, and by his negligence the Plaintiff was worse,

3 H. 6. f. 37. Action upon the Case, and Counts, That the Defendant took upon him to take a Mill before such a day, and did not; but held, That he ought to have Counted what he should have, for it shall be *quid pro quo*; and otherwise the Action doth not lie.

2 H. 4. f. 4. Action upon the Case, and Counts, That the Defendant took upon him to make him a house, and it seems it doth not lie. I conceive that was, for that he doth not count what he should have for doing it, 11 H. 4. f. 31.

14 H. 6. fol. 19. Action upon the Case, where one had bargained to him certain Land for a certain sum, and undertook, that a stranger release unto him. Where a Carpenter covenants to make me a house, or a Chyrurgeon takes upon him to cure me of my Hurts, and they do not; for this not doing, it seems, an Action upon the Case lies.

21 H. 6. fol. 53. If one for ten Marks bargain with the Plaintiff for two Pipes of wine, and undertake to deliver them at D, and did not, an Action upon the Case lies, though that sounds in Covenant, for that there is no Specialty; And the same Law is of all other Bargains, by *Paston*, bargained, sold, or bought: It is no diversity to one or the other.

19 H. 6. f. 49. Action upon the Case, that the Defendant assumed upon him to cure his Horse of a certain disease, and that he negligently and carelessly applied Medicines, that the Horse dyed, and it lies.

26 H.8. Tit. 133. Action upon the Case, that the Plaintiff delivered goods to the Defendant, and the Defendant for ten shillings undertook to keep them safe, and did not to the loss, &c. The Defendant saith, that he had them not by the Delivery of the Plaintiff, good by *Fitzh.* and *Shelley*.

34 H.8. Tit. 107. Action upon the Case in *London*; and Counts that he was Possessor of Wine and Stuff, and shewed that certain in such a Ship: The Defendant at *London* assumed for ten pounds, that if the Ship and goods did not come safe to *London*, and are there Landed, that then he would satisfy a Hundred pounds to the Plaintiff; and that afterwards the Ship was robbed upon Trade on the Sea, and for not satisfaction he brought his Action; the Plaintiff doth not shew where he was possessed, and yet good; and the truth was, that the Bargain was beyond Sea, and not in *London*. But where the place is not local, it is not material; and though he were robbed upon the Main Sea, the Action lyes in *London* upon the Assumpsit: see after.

19 H.6.f.49. Action upon the Case, that the Defendant at *London* took upon him to cure his Horse, and that carelessly he gave him a Medicine that the Horse dyed; the Defendant saith, that at *Oxford*, in the County of *Oxford*, he took to cure his Horse, which saith, without that, that he undertook at *London*, and held a good Plea.

3 H.4.f.4. Deceit in Land of that, that the Defendant there did undertake, that the Lord should cause him to have certain Copyhold of the Mannor of D. in the County of *Middlesex*, and he assured that to others, and saith, that he might be sued where the Assumpsit was, or where the Land is. Inquire.

11 H.4.fol.4. Trespass by Executors in *Middlesex*, of Money taken in the life of the Testator: the Defendant saith, that the Testator was indebted unto him, and delivered that to him in *London*, in the name of payment &c. And it is no Answer to the Trespass in *Middlesex*, but he should say, without that, that you took it in *Middlesex*, as the Plaintiff supposes, and is good. 7 H.6.f.37. & 22 Ed.4.f.38. the same.

4 H.6.fol.12. Trespass of a Close broken in D. Defendant justifies in S. for Common appendant, and ought to traverse

traverse, without that, that he is culpable in D. 22 H. 6. fol. 40.

9 H. 6. f. 62. Trespas of digging a Turbary in D. in the County of *Middlesex*, he cannot justify in the County of *Essex*; without that, that he is Guilty in the County of *Middlesex*; for he may plead not guilty if it be in another County; but in Trespas local in D. th: Defendant may justify in S. in the same County, without that, that he is guilty in D. but in Trespas transitory in D. Defendant cannot justify in S. in the same County, without that, that he is culpable in D. yet in Trespas of Battery, or Trespas of goods taken in D. in the County of *Middlesex*, and Defendant justifies in S. in the County of *Essex*, without that, that he is culpable in D. in the County of *Middlesex*, 5 H. 4. f. 2. 10 H. 7. f. 27. 11 H. 6. f. 20.

5 H. 4. f. 3. Trespas of Sheep taken at D. in the County of *Hartford*: the Defendant justifies the taking in *Smithfield* in *London*, doing damage, he ought to say without that, that he took them at D. in the County of *Hartford*.

6 R. 2. chap. 2. that Writs of Debt and Account, and all such whatsoever hereafter shall be taken in their Counties: and it is ordained, that if hereafter it be declared, the Contract thereof to be made in another County, that then incontinently that Writ shall be quashd.

4 Ed. 4. fol. 48. By *Needham*, a man cannot plead in Abatement of a Writ, and say, the Contract was made in another County, for the Statute is not intended, but where it appears by the Writ, that the Contract was made in another County; but before this time they have used to make Examination where the Contract was made, and upon that abate the Writ, if it were in another County but this not used now. See 3 H. 6. 30. *Examination*, and fol. 36.

18 Ed. 4. fol. 1. Nuisance, that a Mill was erected in D. in the County of *Kent*: the Defendant saith, that he and all his Ancestors have been seised of a Mill in the County of *Essex*, and the Mill fell by Tempest, and he built it, without that, that he is guilty of any Annoyance in D. in the County of *Kent*, and doth not traverse all the County, and yet good by the whole Court, for that, that the thing is local, and annexed to Fee-hold, and contrary of bea-

ing, or goods carryed away, which may be continued, and is transitory, 21 H. 6. f. 11.

2 M. Tit. 283. Traverse by, without that, of Trespals of Battery, or goods carried out, it is transitory, and is not local, as of Trees cut, and grass mowed, and therefore in Trespals transitory, the place shall not make Issue, and is not traversable, no more then in Trespals upon the Case upon an Assumption, and these may be continued; contrary of Trespals local. See after Title, Vill.

34 M. Tit. 268. Traverse by, (without that) Action for making false Cloath in *Bartholomew Fair, London*, against the Statute: Defendant saith, that he made them well and truly in D. in the County of E. without that, that he made them in *Bartholomew Fair, London*, as, &c. and it is good, 22 Ed. 4. f. 38. the same *verbatim*.

Bargains and Contracts.

For that your Actions of Debt are in Count Bayons of Bargains and Contracts, it is convenient to speak something of Bargains and Contracts; and where the Cause or Duty is traversable, and where otherwise adjudged, what is a good Plea, and what Pleas he shall not have, for that he may wage his Law.

DEbt of that, that he lett one a Chamber, and board for his Wife and Son, for every Week six shillings, it is a good Plea, to say, that he did not lett the Chamber, for he destroyes the contract in part, and it is intire, 9 Ed. 4. fol. 1.

21 Ed. 4. f. 26. If the Plaintiff lett two Horses for forty shillings, and counts in Debt, that the Defendant bought a Horse for forty shillings, the Defendant may say, that he owes him nothing, in manner and form, or, vary from the contract, and the Jury upon pain of Attaint ought to find for the Defendant; the same Law is, if he sell one Horse, and counts that he bought two Horses for forty shillings; or if he sell a Horse for forty shillings, and count that he bought an Oxe for forty shillings, upon pleading that he oweth him nothing in manner and form, this is material to aid the Defendant.

3 H.6. fol. 51. Debt, and counts for Tallow bought for forty shillings: the Defendant saith, That he bought the Tallow for three shillings and four pence, which he is ready to pay; and to the remnant wages his Law, and had it.

14 H.B. fol. 17. If I sell goods for so much as J. S. shall say, it is no bargain forthwith, and yet if he sell them to another, before J. S. saith what he shall pay, Action upon the Case it seems lyes.

14 H.8. fol. 20. If Lessee for years grant his Interest to one upon condition, that he obtain the good will of the first Lessor, and pay so much as he shall arbitrate, and he obtain his favor, this is a good Contract; but there agreed, that is but a communication, without (*Quid pro quo*) forthwith, or at the day agreed, as here. It you say, that you will give ten pounds for my Horse, and you do not pay forthwith, it is no bargain; but if you be telling out your money, he cannot sell that to another in the mean time, for there was no fault in you; but if agreement be that you shall give ten pounds for my Horse, and I give a penny in earnest, that seems a perfect bargain, and you shall have the Horse, and I shall have the money by Action of Debt, 15 H.7 f. 6.

10 Ed. 4. f. 21. If a Priest be hired to sing for ten pounds *per annum*, he is not compellable to serve as a common Labourer is; but if he depart within the Term, his wages is intire, and shall have nothing; and there it seems, if one sells his Horse to me for twenty shillings, he may keep him till I have paid him.

17 Ed. 4. f. 1. Trespas of Corn taken: Defendant saith, The Bargain was, That the Defendant should go to J.S. and see the Corn, and if they liked upon the view, and gave forty pence for every Acre, that he should have it: And saith, That he liked them upon the view, and took them, and it is no good plea, for notwithstanding the Bargain was, that he should have upon his good liking upon view, yet it is upon giving 40 pence for every Acre also, and he cannot take them before he pay, for that is parcel of the Contract. And so if one agree upon the price for wares, he cannot take them before he pay, unless he have day of payment given unto him.

18 Ed. 4. f. 6. The Husband sells Trees growing upon the Land

Land of his Wife for twenty pound, and the Buyer takes part of the Trees, and paid ten pound, and after the Wife died without Issue, so that the Husband shall not be Tenant by the Curtesy: the Husband shall have Debt for the ten pound, for that, that the Contract was intire, and yet the Buyer shall not have the residue of the Trees: And where one sells another mans Horse, which he hath by wrong for ten pound, out of an open Market, and the Owner takes the Horse, as he may; yet Debt lyeth for the ten pound, for that, that the contract was once executed; and, by *Bryan*, if one sells a Horse for ten pound, he may keep him if he will till he be paid.

20 H.6.f.22. A man seised in Fee of Land, sells the Trees and after makes his Feoffment in Fee to another before the cutting, the buyer shall have the Trees.

21 H.7.f.6. by *Fineux*, If one ask the price of a Cloth of a Merchant in *London*, and he saith twenty shillings, and the party saith he will give it, and he take the Cloath, the Merchant may have Action of Debt for the twenty shillings, or keep it till he be paid, and if the other take it against his will, he shall have Trespass at his choice.

14 H.8.f.17. If I sell my Horse for so much as J.S. shall say, it is said it is no Bargain forthwith; but, if he sell that to another before J.S. have said what he shall have, I shall have an Action upon the Case.

23 H.6.f.50. Debt, the Plaintiff counts that he sold twenty Acres of Land to the Defendant, for twenty pound, which he demanded, and by *Newton* though the Plaintiff do not enfeof the Defendant, yet he shall have Debt and the Defendant shall have an Action upon the Case against the Plaintiff. See 3 H.7.f.14.

2 H.7.f.12. Action upon the Case lyes for that, that the Defendant hath Bargained and sold to him Lands, and that he hath enfeofed another of them, and the Defendant traverses the Feoffment to another, and that proves that this is the cause of his Action, and not the Bargain.

18 Ed.4. f.16. If the Bargain were, that the Plaintiff should give ten pound for so much Wood if he liked it, or it pleased him upon the sight thereof, this is a Bargain at the Bayers pleasure; Now if first upon the sight they disagree, then it is a void Bargain, though he after agrees

gree to it, and if he agree upon the sight, it is a perfect bargain, though after he disagree.

5 H.7.f.41. One sells Goods or Wares, and after the sale he warrants them; this warranty, made at another time then at the sale, is void.

9 H.7.f.22. If the Seller warrant the thing sold, the Buyer may have Deceit, though he hath not paid the money, for the Seller may have Debt.

10 H.7. f.7. Agreed by the Court, If I sell certain goods to another for a certain sum; although he do not pay the money, if a day of payment be appointed, that is a good Bargain, and the property altered by this sale. And by *Huffey* and *Bryan*, a Victualler shall be compelled to sell his Victual, if the buyer tender him ready payment, and otherwise not, 39 H.6.f.18. contrary by *Prisot*.

21 H.7.f.6. By *Fineux*, If one demand the price of a Cloath of a Merchant in *London*, and he saith, 20 shillings, and the party saith he will give it, and takes the Cloth, it is in election to make that a Bargain, and to have an action of Debt, or to keep it till he be paid; and if the other take the cloath by reason of this bargain against his will, he may have Action of Trespass.

Plowd. Com. f.309. Where one undertakes by word to make a house without consideration, that he shall have no Action.

Plow. Com. fol. 11. there saith, That Bargains or Agreements conditional, shall be said good, after that the condition is performed, but before they are but words.

44 Ed.3.f.21. Where one becomes Surety for J. S. and in consideration will give him longer day of payment, if J. S. do not pay, he will; Action upon the Case lyes.

27 H.8.f.33. If I sell to you twelve barrells of Ale, you shall not have the barrells but the Ale; but if it were twelve barrells of Wine it is otherwise, for this is the usage and intent.

1 H.7.f.13. Debt upon buying Oyl, for a hundred Marks paid, and so though of simple contract, it seems the Defendant may say, that he bought with condition that he should pay when he had uttered them, without that, that the Plaintiff sold in manner and form, though he might have waged his Law.

21 Ed.4.f.49. Debt of buying a Horse at J. in the County

ty of *Middlesex*: Defendant may say, that he bought him in *London*, upon condition, without that, that he bought him in *S.*, in the County of *Middlesex*; but he cannot say, that he bought him in another County than the Plaintiff counts, unless it were, that he Pleads, that it was upon Condition.

33 *H.6. fol. 46. D. bt.* The Defendant cannot traverse the Contract, where he may wage his Law; but the Defendant may say, that the Bargain was upon condition, and so traverse that, 21 *Ed. 4. fo. 28.*

34 *H.6. fol. 46.* Debt upon Bargain at *D*; the Defendant cannot say, that it was upon Condition at *S.* in the same County, but in another County he may.

8 *H.6. fol. 53.* Debt upon award upon abitrement; it is no Plea for the Defendant to say, that he never submitted to their award, for that he may wage his Law, he cannot traverse the cause of the Duty.

9 *Ed. 4. fol. 39.* Where a Bargain is, to pay to the Plaintiff five shillings, or a Gown such a day; it is at the choice of the Plaintiff after the day, to demand one or the other which he will.

8 *H.6. fol. 53.* Debt upon Contract, he cannot say, No such Contract, or, that he did not buy; for he cannot traverse the cause of the duty, where he may wage his Law, 58 *H.6. fol. 22.*

11 *H.7. fol. 4.* Where a man may wage his Law, he cannot Plead payment in a Forrain County. But in Debt upon a Lease for years by Indenture, the Defendant may plead payment in a Forrain County, and that is good; but in the same County he ought to Conclude, and so he owes him nothing, 10 *H. 7. fol. 4.*

30 *H.6. fol. 17.* Debt upon arrearages of account, payment in another County without concluding, and so he oweth him nothing, is good; but where he may wage his Law, his Plea is not good.

22 *Book of Assises 41.* Where one undertakes to carry his Carriage in a Boat, and over-chargeth it, by which his loading perissheth, Action upon the Case lies.

42 *Book of Ass. 8.* Action upon the Case lies against *J. S.*, for that, that the Plaintiff had credit in *J. S.*, and bought of *J. S.* an Ox, as his Goods, where it was the Ox of *J. D.*

27 *H.8. fol. 34.* It seems, if you pay to me twenty pound, that

that then you shall have my Lease and term of years; this is but a communication if you do not pay; and it is a Bargain conditional, that is, at your choice.

Doflor and Student 104. Promise and Assumpsit for a thing past, is not good: Inquire, as, I promise to give to you forty pounds, for that you have built me a House; it is no good Contract, for it should be perfect at the time of the Contract.

27 Ed. 3. Tit. 6. *Apportionment, Br.* A man retained to serve for a year, for ten pounds at two Feasts; and the Master dies after the first Feast; he shall have Wages but for one Feast: but where he was retained for ten pounds whole by the year, and he departs within the year, he shall have no Wages; for, Contract shall not be apportioned.

21 Ed. 3. Tit. 83. Debt, where a man payes ten pounds for teaching his Son three years, the Son shall not have the ten pounds again which is paid; but if the money were not paid, it is otherwise; for the cause ceasing, the effect ceaseth.

1 H. 6. fol. 8. by *Bab.* If I be your Debtor in twenty pounds in a simple Contract, and I give you a Bond for the same; If you bring Debt upon the Bargain, I shall plead this well in the discharge thereof.

3 H. 4. fol. 20. Debt of twenty pounds upon a Contract; the Defendant saith, that the Plaintiff after took a Bond of ten pounds parcel of it, and held a good Plea to the whole Bargain; for a Bargain determined in parcel, is determined in all, for it is intire.

19 H. 8. Tit. 29. If a man be indebted to me by Bargain, and after gives me a Bond for the same Debt, the Bargain by that is determined; for in Debt upon the Bargain it is a good Plea, that he hath a Bond for the same Debt: but if a stranger make to me a Bond for the same Debt, yet the Contract remains; for that, that it is by another person, and both are now Debtor,, 21 H. 7. fol. 5.

11 H. 4. fol. 23. If one takes my Beast by wrong from my Bayliff, and after I give them to him, by *Hank*, Bayliff shall have no Trespass.

2 Ed. 4. fol. 15. By *Danby, Needham, and Moil*, If I deliver Goods to J. S. and a stranger takes them, and after I give the Goods to another stranger, this is a good Gift: But

Littleton

Littleton saith, that the first stranger hath property as Trespassor, and for that he doth not allow, the Gift good.

6 H.7. fol.9. By *Brian*, A man cannot give or release his Right by word, though it be a personal thing : Enquire.

10 H.7. fol.27. By *Brian*, If a man take my Goods by wrong, and I give them to him, that the Gift is void, as well as if they were given to a stranger ; but *Keeble* would that to be good and intire as a Release, and said, that Release by word of a Chattel, is good, as well as with a Condition.

21 H.6. fol.43. It seems, one may Contract, and sell all his Tythes of his Parish for seven years to come, or the profits of his Court for seven years, and it is good.

42 Ed.3. fol.24. One may contract and grant, that he shall not be impeached of Waste, and dispence with a thing that is not in being, for that, that Grant is a Covenant; but he cannot release the waste to come.

9 H.6. fol.12. Where the Queen grants twenty pounds out of the great Custom of *London*; the Custom is not a thing in being, but is paid by chance, and for that the person of the Queen is charged by a Writ of Annuity.

6 H.7. fol.10. It seems, that the King may grant a thing not in (being) if that found in Covenant, as to be discharged of Tythes; or of collecting of Tents to be granted by Convocation.

4 H.7. fol.10. If one the first day of *May* lets to begin at *Saint Michael*, next, the Lessee may grant to sell that term before the Feast of *Saint Michael*, but not release or surrender that, 22 Ed.4. Tit. Grants, 110.

24 Ed.3. Tit. 47. Grants Br. If a common person grants award, and so from Heir to Heir, till one of them come to full age; it is not good for award which shall fall afterwards; contrary, of such a grant made by the King.

12 Ed.4. fol.3. Where a common person hath but right of Reversion, he cannot grant it; and so it seems he cannot grant an Escheat of his Tenant before that fall.

Fitzh. 120. K. If one promise another ten pounds to marry his Daughter, and he marry her; this is a Contract in our Law, upon which he shall have Debt. See 14 Ed.4. fol.6. and 15 Ed.4. 31.

Fitzh. 44. If one promise another ten pounds to marry his Daughter, if he marry his Daughter; it is a good Contract

fact in our Law ; but if he sue for that ten pounds in Court Christian, Prohibition lies : but if he promise one with his Daughter in Marriage ten pounds, he shall sue for that in Court-Christian.

17 *Ed. 4. fol. 4.* If a man promise a certain sum of Money to another to marry his Daughter or Servant, which he marries accordingly: Debt doth not lye, for it is Spiritual; contrary, *Rogers and Sulyard* : for it is (one for another) though it were said contrary; and the reason was, it shall be sued in the Spiritual Court for this cause.

22 *Book of Assises 70.* If one promise, that if he will marry his Daughter, he shall have ten pounds, this is a Contract; this is a Promise in our Law, and he shall have Debt : but if he say, he will give with his Daughter ten pounds, he ought to demand that before the Ordinary.

45 *Ed. 3. fol. 24.* Where Covenant was by Deed between the Plaintiff and Defendant, that if the Plaintiff took to Wife the Daughter of the Defendant, that then he shall be bound to him in a hundred pounds; and if he take her to Wife, Action of Debt lies, and the Court shall not be outed of Jurisdiction, though that touch Matrimony, for that, that this was by Deed; but otherwise it is, if it were without Deed.

37 *H. 6. fol. 9.* By *Prisot*, If an Agreement be made, that A. shall take the Daughter of B. in marriage; and if he marries her, there it is said, that he shall not have Debt; for it seems it is not (*Quid pro quo*), Inquire: for if one sells a Horse for ten pounds, and hath no Horse, yet he shall have Debt for that; and yet it is not (one for another): and where I sell my Land in D. for ten pounds, Debt lies, and yet he hath not the Land before Livery.

27 *Book of Assises, 29.* Where a man sells all the Trees in his Wood, and agrees, that the same Buyer shall not cut them before MICHAELMAS next; if Hawkes in the mean time are in the Trees, it seems that the Seller shall have them.

14 *H. 8. fol. 1.* If a man lett Land, except the wood and under-wood, and Hens and Shovelers make their Nests in the Trees, the Lessor shall have them; for the Trees are excepted, and the Nests in the Trees: and the same Law of Acorns, which come by reason of the Trees.

7 *H. 7. fol. 5.* If a man sell a Lease of Land; and certain Cloth

Cloth for ten pounds, the Contract is intire, and cannot be severed: and if one of them were by defeasible Title, and devested from the Vendee; yet the Seller shall have the whole sum; for the Contract is intire, and cannot be severed. See 14 H.8. fol. 13. and 9 Ed.4.

9 H.7.22. If a man sell stuff for forty pounds, and deliver the stuff, and no money paid, nor day appointed; yet it is a good Bargain, and he shall have Debt for the forty pounds: but 11 H.4. fol. 33. If one assume to make the Plaintiff a house before such a day, and doth not, unless it be for such a Sum of Money; Action upon the Case doth not lie, for it is a naked Bargain.

9 E.4. fol. 54. By *Littleton*, if a man recovers in debt upon a Contract, and doth not take Execution, yet he cannot have new Action of Debt upon the Contract; for the Contract is determined by the Judgment, and the Nature of the Duty changed to a Record: And by *Danby* and *Moyle* in Account, Debt, Trespas, and such like, it is no Plea, that the Plaintiff at another time recovered in them, unless he said that he had Execution also; contrary *Littleton* and *Choke*: See there, in Debt upon an Obligation seems contrary.

2 R. fol. 14. Where one brings Detinue, and is barr'd by Law waging, he shall not have an Account afterwards; for detinue affirms Property in him, and Account disaffirms that.

12 Ed.4. fol. 13. Where is a Bar by waging of Law in Detinue, one shall not have after an Action upon the Case, for negligent keeping the thing, as it seems.

40 E.3. fol. 27. Where in Trespasse one recovers in London, and be brought in (the thing judged); he cannot refuse this Judgment; and sue for the Trespasse in a higher Court.

20 H.6. fol. 12. Trespas of Goods taken, it is a good Plea that you at another time brought Trespasse against me; and J. S.; and that J. S. appeared, and pleaded, Not Guilty, and it was found against him, and that the Plaintiff had Judgment; for it is carryed in Damages, and reduced into the thing judged, and may have execution at his pleasure; but otherwise it is in Debt, for there is not a good bar, unless he pleads, that he had Judgment and Execution against one.

23 H. 8. tit. 105. Action upon the Case, Debt of twenty pounds, if the Defendant hath waged his Law in this Action, and the Plaintiff brings an Action upon the case; it is a good Plea for the Defendant to say, that at another time he was barred in Debt for the same, by waging of Law, 2 R.

Trespas, if in Debt, or other Action in the Common Bench; the Defendant pleads Recovery of that in a Court of Franchise, or that the Plaintiff is barred in a Court of Franchise, though it be not of Record here; yet it seems that the Defendant shall have advantage of Record, and otherwise shall be a mischief, 46 Ed. 3. fol. 17.

37 Ed. 3. tit. Bar. 246. Debt upon an Obligation, it is no Plea, that at another time before the Mayor of London, the Plaintiff recovered upon the same Obligation against the Defendant, and had Execution; it is no Plea, for that, that the Obligation was not *Dumum*, nor the Defendant doth not shew acquittance, and the Plaintiff by award of the Court Recovered.

4 H. 7. fol. 8. Three bound in an Obligation, jointly, and severally; it is no barr for one to say, that he recovered against another: but that he recovered, and had Execution, is good; and he ought to shew acquittance of the payment, or otherwise he shall be charged.

5 Ed. 4. fol. 5. Debt by several *Præcipes* against two, by Choke, where he hath Execution against one, he shall not have against the other afterwards.

22 Ed. 4. fol. 7. Two are bound in an Obligation jointly and severally; if I have Execution against one, this is a Bar against the other, but not Judgment onely.

Husband and Wife.

What Contract and Act of a married Wife, Bayliff, and Servants shall bind the Husband, or Master; and what not.

A Married Wife hath no Will but the Will of her Husband, and for that, if a married Wife sell or give Goods, and the Husband agree before or after, it is good, and it is his Will, and his Sale: and if the Bargain be advantage or disadvantage to the Husband, Agreement of

of the Husband makes it good : the same Law of an *Assumpsit*, made to a married Wife, to deliver one out of Execution.

21 H.7. fol. 40. The Husband shall not be charged by a Bargain of the Wife ; but if it come to the use of the Husband, and he agree, it is good : but if it come to the use of the House, if he hath not notice of it, or that it was not bought by his Commandment, he shall not be charged by *Fineux* ; for a married Woman cannot do anything which may turn her Husband into prejudice, and contrary of that which is for his advantage. But if I command my Wife to buy a thing necessary, and she buys it, and comes to my use, this general Commandment (it is said) shall bind me, though I do not express what things. But if my Wife without my Commandment buy a thing for my Household, as Bread, &c. and I have no knowledge of it, though that be spent in my House, I shall not be thereof charged, by *Fineux*.

11 H.6. fol. 38. By *Martin*, It seems the Husband shall be charged for necessary Apparel of the Wife, but not for superfluous Apparel ; For *Martin* saith, If my wife buy of a man, and she arrays her self better than belongs to her Estate, I shall not be charged to pay this Stuff taken up, though it come to the use and profit of the Husband, for that, that the wife of necessity ought to be appavelled ; but for that that passes her Estate, her Husband shall not be charged.

20 H.6, fol. 23. By *Newton*, Buying by the Wife or Servant, though it come to the use of the Husband, or Master, it shall not charge the Husband or Master, *Nat. brev. fol. 61.* the same : Note, There ought to be Assent and Agreement of the Husband and Master ; if they shall be charged, is to be intended upon that.

Doct. & Stud. fol. 137. N. If a man send his Servant to sell a thing which he knows to be defective, and commands him to sell it to such a man, Deceit lies ; but if it be generally to whom he could, it lieth not against the Master, 9 H. 6. fol. 254.

Fitzh. 120. F. A man shall be charged in Debt for a Bargain of his Bayliff, or his Servant, where he gives Authority to his Bayliff or his Servant to buy and sell for him ; and so for a Bargain made by his wife, if he give authority to his wife, and otherwise not.

34 Ed. 1. tit. 163. *Debt. F.* held there, That where a Woman receives ten quarters of Corn to the profit of the Husband, he shall be charged; but where he counts, that the Wife borrowed ten quarters of Corn, which came to the profit of the Husband, he shall not be charged in Debt.

13 R. 2. tit. 50. *Account*, Where Tonels of Wine are delivered to a married Wife; if the Husband agree to it, he shall be charged, and otherwise not.

27 Book of Ass. 5. If a man hath a Bayliff known, and who hath used to sell the Beasts of his Master at the Market; this is a good sale, though he hath no special Warrant to sell his Beasts: And if such a Bayliff pledge the Goods of his Master, that is, Ox or Horse, for Corn, which comes to the use of his Master, the Master shall not have Trespass of the sale or pledging.

8 Ed. 4. fol. 13. If I make a man my Bayliff of my Mannor, he cannot make a Lease of the Mannor, nor of parcel, without special Commandment of his Master to do it, for that shall not bind the Master.

8 Ed. 4. tit. 14. *Contract, Brook*, If a man send his Servant to buy certain Goods, or his Factor or Attorney, to buy for him Merchandise, and he buy, &c. The Master shall be charged, though that the Goods never came to his hands, and though that the Master have no notice of that; and the Master cannot countermand without notice, given to the Servant, Attorney, or Factor, by Pigot and Fairfax.

2 E. 4. fol. 5. If my Servant in *Cheapside* which hath power to sell, give my Wares, it is said, I shall have Trespass against the Receiver; but if I deliver Goods to keep to my use, and he gives them, I shall not have Trespass; for he hath no notice whose Goods they are, as in the case of a Servant.

Doctor and Student, fol. 137. If the Servant borrow money in the name of his Master, his Master shall not be charged, unless they come to the use of his Master, and by his Commandment: The same Law of a bargain made by the Servant; but if the Master send his Servant to buy things, and he buys them, the Master shall be charged: And if he buy a thing, and do not speak of the Master, and it comes to the use of the Master, the Master shall be charged.

2 R. 2. *Statham*, fol. 65. Debt is maintainable against the Master of a thing bought by his man, if the Goods come to the use of his Master, notwithstanding that his Servant have no Warrant of his Master to do it; if it be so, that he be known to be his Servant.

11 Ed. 4. fol. 7. If a Servant, which hath authority, sell and warrant the thing, deceit doth not lye against the Master, if it be corrupt.

21 H. 7. fol. 27. By *Kede*, If I command my Servant to distrain, and he rides upon the Distress, he shall be punished, and not I.

How the Husband shall have by his Wife Goods and Chattels, whereof he takes Charge; and how he shall be charged for the wife.

IF a man takes a Wife which hath Goods, now the Goods are in the Husband, 26 H. 8. fol. 4.

Plowdens Commentaries, fol. 418. A woman which hath a Lease for years, or Goods, takes a Husband; they are in him.

7 H. 6. fol. 1. If a Woman have a Lease for years, and takes a Husband, this is in him; but if he grant a Rent-Charge out of that, and dies, the Wife shall have the term discharged: And by *Strange*, If an Obligation be made to a Woman sole, and she take a Husband, he may release that; but if the Husband suffer the Obligation to remain, and dyes, the Wife shall have that, and not the Executors of the Husband, 9 H. 6. fol. 52. the same.

21 H. 6. fol. 29. Where a Woman is Executrix, and takes a Husband, the Goods of the Testator vests in the Husband; and if the Husband give or release them, he may: but if the Husbands die, and do not release them, they remain in the Woman again.

Fitzh. fol. 69. If Beasts of a lone woman be taken, and she take a Husband, he alone shall have a Replevin, for that, that the property is in him only.

Fitzh. fol. 142. I. If a man have the Wardship of one in the right of his Wife, and after his Wife dies; yet he shall hold that, for it was a thing vested in him.

Perkins 107. Where the Husband hath term in right of his Wife, and he aliens that, and dies, his Wife shall not

not have that ; but if he do [not alien that, and dies, she shall have it.

Perkins, 165. A man hath twenty years term in right of his Wife, and lets for ten years, rendring Rent, and dies, his Wife shall have the Rent, and the residue of the term.

Fitzh 119. O. If a man takes a Wife which was indebted to other persons, the Husband and the Wife shall be sued for this Debt, living the Wife ; but if the Wife die, the Husband shall not be charged, unless it were recovered during the Coverture.

Fitzh. 121. If a man lets Land to a Woman for life, rendring Rent, and she takes a Husband, and after the Rent is behind, and the Wife dies, the Husband shall be charged, for that, that he took the profit ; otherwise it is of an Obligation made by his Wife before marriage, the Husband shall not be charged, unless recovery were of that, during the marriage.

Fitzh. 121. D. A woman hath Rent for Dowry, and takes a Husband, and the Rent is behind, and the wife after dies, the Husband shall have Debt for this Rent ; But if a man be bound to a woman, and she takes a husband, and the day of payment comes, during the marriage, and after the wife dies, the husband shall not have Debt upon this Obligation, for that, that it was a duty to the wife, and a thing in Action before the marriage.

Essoyn.

A Frer that any hath put himself into any Enquest, who hath appeared, or might have appeared in these Writs, he shall have but one Essoyn, or one default, &c. *West. 2. chap. 27. Marl. chap. 13.*

Marl. chap. 19. Of Essoins ; it is provided, that in County, Hundred, or in Court-Baron, or others Courts, none shall have need to swear to warrant his Essoyn.

Westm. 1. chap. 42. For that, that Demandants which bring Actions against many Coparceners and Joynt-Tenants, they often avoid by Essoyn.

It is provided, That those Tenants shall not have Essoyn but for one day, no more then one sole Tenant should have

have, so that now he cannot avoid, but only have an Essoyn. *Marlbr. chap. 9.*

Westm. 1. chap. 43. If one be essoyned, as beyond the Seas; where he is in *England* day of the Summons; it is provided; that this Essoyn be not allowed, if the Demandant will aver, that he was in *England* the day that the Summons was made, and three weeks after: But let it be adjourned.

And if the Tenant be attaint, which was in *England* day of the Summons, and three weeks after, the Essoyn shall turn to him for a default.

West. 1. chap. 41. In a Writ of Assise, of Attaints, and *juris utrum*, provided it is for travel of Jurors; that if the Tenant once appear in the Court, never after no Tenant can Essoyn him.

Glocester, 1. chap. 18. Provided, that in other Pleas, than Trespas or Attachments, and Distres, lying; if the Defendant make himself to be essoyned of the Kings-Service, and doth not bring his Warrant at the day which is given unto him by his Essoyn, he shall render to the Plaintiff Damages of the torn of twenty shillings, or of more, according to the discretion of the Justices, and be in the Kings mercy.

West. 2. chap. 12. There lies not to one that brings an appeal of the death of a man, and Essoyn.

West. 2. chap. 17. In the Circuit of the Justices, there is no Essoyn admitted of being sick in Bed, of a Tenement, unless he which makes himself to be Essoyned, truly be sick; for if it be excepted against by the Demandant, that the Tenant is not sick, nor in that state that he cannot come before the Justices, they will receive a Reproach; and if this be disproved by an Inquest, let that Essoyn be turned to a default; neither lies that Essoyn in a Writ of Right between two claiming by the same descent.

West. 2. chap. 27. After that any hath put himself upon any Inquest; at the next day let there be an Essoyn allowed to him; but at other days following by Essoyn, let there be no deferring of taking the Inquisition, whether the first had an Essoyn or not, neither let any Essoyn be admitted after the day given, by the request of the parties, in case that the parties consent to come without an Essoyn.

Westm. 2. chap. 28. When by the Statute of *Westm. 1. chap. 41.* It.

41. It is appointed, that after the Tenants have once appeared in the Court, there shall be no Essoyns allowed them in Writs of Assise; in the same manner from hence let it be observed of Petitioners.

• The Statute of Essoyn questioned, 12 Ed. 2.

That Essoins do not lie in these following Cases; that is,

There lies no Essoyn,

Because the Lands are taken into the Kings hand,

Because he is restrained by Land.

Because there is granted to him from hence Judgment, if the Jurors come.

Because he was seen in the Court.

Because, at another time he essoyned himself, as being not able to come.

He shall not be essoined, as being beyond Sea.

Because such a one essoyned him such a day.

Because it was commanded the Sheriff, that he should make the party to come, 41 Ed. 3. fol. 29.

Because a Woman, is not in the Kings Service; but because a Nurse, Midwife, or be sent for by a Writ, to inspect the Belly.

Because she seems to be deceived in her Dower, and deferring of right.

Because such a Complaint hath not found Sureties to prosecute.

Because the Attorney was essoyned.

Because he hath an Attorney in his Complaint.

Because he is essoined, witnessed, &c. that he is not in the Kings Service.

Because the Summons is not testified, or part of the Return not attached.

Because at another time he was essoined of the Kings Service, and now did not send his Warrant.

Because re-summons was in the last Presentment, or Death of his Ancestor, 30 Book of Ass. 51.

Because such a one is not named in the Writ.

Because it was commanded the Sheriff, That he should distrain him to come by his Land and Chattels.

Because it was commanded the Bishop, That he should make him come.

Because the time was past.

But it is to be known, That an Essoin of the Kings Service is allowed after the great Cape, and the small cape.

1 H. 6. f. 4. Trespas, Issue was, If the Land were the Freehold of the Plaintiff, or of the Lessor of the Defendant; and after Issue, the Defendant prayed aid of his Lessor, and at the Summons returned, the Prayee was essoined; and at the Day which he had by the Essoin, he joyned; and at the (*Vnire facias*) returned, the Prayee cast Essoin, and it lies, for that, that the Statute is, *Postquam. &c.*

44 Ed. 3. fol. 38. *Præcipe*, the Tenant tenders his Law, and this is at Issue, for that after he shall have but one Essoin, 37 H. 6. f. 2. the Plaintiff was essoined at the Day of the Law, 9 H. 5. f. 5. the same.

48 Ed. 3. f. 21. One is essoined after Issue in *Lon'on*, and at the day in Bench upon a forraign matter, is there essoined again, for it is the first day in Bench.

21 Ed. 4. f. 19. Debt, Issue was upon the Custome of London, and upon Writ to certifie that, Defendant is essoined, and it lieth after Issue by the Common Law; for after every mean Appearance, it lies by the Common Law, and though the Statute be (after Inquest) which is not here, and for that the Essoin is allowed.

21 Ed. 4. f. 19. Debt, Issue was upon the Custome of London, and upon a Writ to certifie that, Defendant is essoined, and it lieth after Issue by the Common-Law; for after every mean Appearance, it lies by the Common-Law, and though the Statute be after Inquest, this is not here.

34 H. 6. f. 18. *Præcipe*, the Tenant prayes aid of him in Reversion, and had it, and at the Summons to aid him returned, the Prayee was essoined, and had a day of that Essoin, and at the day of that Essoin, the Tenant was essoined, and had it.

22 Ed. 3. fol. 4. *Quare Impedit*, the Plaintiff was essoined at the (*Distingas Juratores*) and the Inquest came and adjourned; but it seems, that the Defendant shall not be essoined at this day.

25 Ed. 3. f. 38. *Scire facias*, the Tenant pleads to the Issue, and at the next day would have been essoined, and could not, for it is delay, which shall not be in a (*Scire facias*) by the Statute of *Westm. 2. chap. 45. 2 H. 7. f. 10. 32 H. 5. f. 53.*

1 H.7. fol. 8. There was an Essoin cast upon an (*alias Venire facias*) where the first was not served.

1 Ed. f.38. Waste, *Venire facias* was abated first, and at the second *Venire facias*, Defendant was essoined, and that allowed, for the first was as nothing.

9 H.5. fol. 12. *Dum non fuit compos mentis*, *Venire facias* awarded, and not returned, and *Sicut alias* returned, the Tenant was essoined, and it doth not lie, for it is not the first day after the Issue.

3 H. 6. fol. 57. Debt, the parties were at Issue, and a *Distingas Juratores* returned, at which Day the Defendant cast an Essoin of the Kings Service, and that Essoin was not allowed.

14 H.6. f. 20. The Plaintiff cast an Essoyn, at the *Habeas Corpora Juratorum*, and this turned upon him in Default; for the Essoin doth not lie at the second day, neither for the Plaintiff, nor for the Defendant, but is oured by the Statute, *Westm. 2. chap. 27.* which is *Postquam aliquis, &c.* And this Statute is intended as well for the Plaintiff as the Defendant.

12 H.4. f.24. Where an Essoin *de malo veniendi*, was before the Statute of *Marlbridge, chap. 19.* The Essoiner swears that he was sick.

2 Ed.4. f.16. Where Essoin of service of the King is cast in, it seems, that the Essoiner shall be sworn for that, 19 H.6. f.51. the same.

20 H.6. f.22. Where one is Essoyned of the Kings Service, the Essoyned shall be examined, and sworn upon a Book, If he be in the Kings Service or nor, and nor as he is informed; otherwise, the Essoyn shall not be allowed.

27 H. 6. fol.2. Debt, Defendant offers to wage his Law, and had day, &c. and at the day the Plaintiff was Essoyned; and after that day, the Defendant was Essoyned, and after at that day the Plaintiff cast in another Essoyn, and it lieth well by the Court: for so long as the Plaintiff and Defendant agree, they may fouch by Essoyn.

9 H 6. fol.21. *Quem redditum reddit*, against two, held, that they cannot fouch by distress or Essoyn: Note, That by 32 H.6. f. 6. Essoyn doth not lie in this Action, for that, that this is Judicial.

2 Ed. 4. fol. 20. Dower against A. B. C; and at the day A. makes default, and B. was essoined, and C. appears, and the same day given to C; and at the day, A. made another default, and B. appeared, and C. cast the Essoin; Well, for every one shall have an Essoin, notwithstanding the Statute of *Marlbridg*, chap. 19. but after they shall not have more Essoins.

48 Ed. 3. fol. 20. *Præcipe* against the Husband and his Wife, before appearance, each one may be Essoined after other, but not after again, 4 H. 6. f. 6. 9 H. 6. f. 44.

3 H. 7. f. 19. *Præcipe*, the Tenant was essoined, and after vouched, and the Vouchee was essoined, at the day the Tenant was essoined, and it doth not lie, 22 Ed. 4. f. 14.

22 Ed. 3. fol. 5. *Præcipe*, against three at the Summons, one was essoined, and others have the same days, at which day another was essoined, and the same day, &c. and the Essoin adjourned; but after they have all appeared, they cannot fourch or avoid.

29 Ed. 3. f. 25. *Formedon*, against a Husband and his wife, and at the first day the Husband appeared, and the wife was essoined, and at the second day the wife appeared, and the Husband is essoined and allowed; but after that they have appeared, they cannot fourch by Essoin: for the Statute is, That Coparceners and Joynt-Tenants cannot at any time fourch or avoid, and so of the husband and the wife, 30 Ed. 3. f. 25. See 38 Ed. 3. f. 1. for fourching by distress, 4 H. 6. f. 6.

3 H. 6. f. 36. Debt against a Parson of Arrearages of an Annuity, the Defendant prayed aid of the Patron and Ordinary, and there were four Patrons, and at the Summons to aid, one was Essoined, and the three have the same day; and at the day he Essoined, appeared, and another essoined, &c. and now after every other was essoined one after another, the first cast the Essoyn and could not fourch, 33 H. 6. f. 28.

Over the Sea, and the Kings service.

Fortescue saith, Where the party hath an Attorney in Court, he shall not be essoined of being beyond Sea; therefore not of the Kings Service, 19 H. 6. f. 57.

2 Ed. 4.

2 Ed. 4. fol. 18. At the small Cape against the Husband and Wife, the Husband was essoined of the Kings Service, notwithstanding that he had an Attorney not essoined; for the Attorney shall not be essoined of this Essoin.

Britton, fol. 282. Our Service is, as being in Our Power, and the Defence of Us, and of Our People, and of Our Realm.

35 H. 6. fol. 1. Where one essoined of the Kings Service, and hath a day to bring that in, he ought to bring that in under the Great Seal of the King, and not the Privy Seal.

19 H. 6. f. 50. If one be the Kings Carver, he shall not be essoined of the Kings Service; and yet the Woman which is Landerer or Nurse, shall be essoined of the Kings Service.

4 H. 6. f. 8. One essoined of the Kings Service, which is under Bail, and cannot; for by the Bail he is intended in prison, and by the Essoin at large.

10 H. 4. f. 6. *Quare impedit*, Essoin of the Kings Service is not allowable for the mischief of Laps, 27 H. fol. 1. the same.

12 H. 4. fol. 24. Where one is essoined of the Kings Service, the Name of the Essoiner shall be put in; for if his Master do not bring in his Warrant, Deceit lies against him and his Master.

Fitzh. 17. H. If one be essoined of the Kings Service, and at the day he doth not bring in his Warrant, he shall lose twenty shillings. &c. by *Glocester*, chap. 8. and further shall be in the Mercy, and it shall be allowed. See 45 Ed. 3. f. 24.

44 Ed. f. 5. Essoin of the Kings Service doth not lie in a Writ of Dower.

22 Ed. 3. f. 10. At the *Venire facias* returned, the Defendant puts the word without day by protection, and at the re-summmons he was essoined of the Kings Service, and had it.

27 Ed. 3. f. 81. In *Replevin*, the Avowant was essoined of the Kings Service, and for that, that he doth not bring in his warrant of that, he shall lose twenty shillings for the Journey, and not damages, nor any other thing.

29 Ed. 3. f. 17. At the *Disyngas* one was essoined of the King

Kings Service, and at the day did not bring in his Warrant, and came not, by which by award he lost his Issues returned upon him, that is, five and twenty shillings, and the Plaintiff hath for the delay forty shillings.

29 Ed. 3. f. 46. After Issue in Trespass, the Defendant is essoyned of the Kings Service, and at the day fails of his Warrant, and by Award he shall recover damages by the Statute to twenty shillings; and further 20 shillings, by discretion of the Court, and the Inquest taken by default, 2 Ed. 4. f. 16.

19 H. 6. f. 51. In Replevin, at the *Habeas Corpus Juratorium*, the Plaintiff was essoyned of the Kings Service, the Essoynr was sworn, and had it.

Fitzh. 29. C. If a man be essoyned of the Kings Service, the Plaintiff may have a special Writ, if he be not in the Kings Service, to disallow the Essoyn.

4 Book of Ass. 3. Attaint is laid at the next day, after the first day, and quashit; and in *Juris utrum* it doth not lie after appearance.

4 Book of Ass. 2. Attaint after Appearance, the Defendant is essoyned of the Kings Service.

29 Book of Ass. 25. Attaint after Appearance, the Plaintiff casts the Essoin, and was cast, that is a common Essoyn.

19 Ass. 15. Essoyn is out after Issue in Attaint by the Statute.

18 Ed. 4. f. 8. Attaint, the Tenant at the Summons was essoyned, and at the day of adjournment made default, and the Attaint was awarded by his default; and if at the Summons one be essoyned, and at the Day make default, there shall go a grand Cape, and not a small Cape, for he doth not appear.

30 H. 6. f. 1. Assise in Common Bench, returnable the Monday after *Ostabis*, and the Plaintiff was essoyned in *Ostavo*. and the Court allowed that, and it shall be before parties are demanded; and it seems, that Essoyn in Assise shall be entred in the Roll of Assise, and the Roll of Essoyn, this is for Essoyn of Common Pleas.

1 H. 7. f. 21. Essoyn is good, though it be not in the Roll of the Plea, but in the Roll of the Essoyn.

10 H. 6. f. 23. Assise by two, and one makes default, and so summons to prosecute together at the next Assises, at which

which day he that made default is Effoined, and it doth not lie, but is severed by award.

14 H.6. fol.23. Entry in nature of Assise, the Tenant was Effoined, and it was adjourned, and it is not like to an Assise, for after appearance there lies no Effoin.

Common Essoyn.

Quem redditum reddit, and Scire facias, they are Judicials, and no effoin lies in them, 33 H.6. f.6.

34 H.6. f.31. Trespas, Return, Attach, and *Proceps*, Return summoned, the Defendant shall be Effoined, but when he comes by the great Distress, he shall not be Effoined.

34 H.6. f.50. Debt. The Plaintiff at the first day may be effoined, unless the Defendant appear upon a *Capias*, *Capi*, or upon an Exigent.

9 H.6. fol.58. Where one is let to Bail, no Effoin of the King, or other Effoin lies, for that he is in manner as in Prison.

11 H.6. fol.39. *Replegiare* at the day of Imparlance Effoin doth not lie for the Defendant.

2 H.4. f.17. *Deceit*. The Defendant casts an Effoin after the day given, and it was adjudged and adjourned.

Nat. Erev. f.13. If any man be effoined of being sick in his bed in a Writ of Right, if the Demandant will aver, that he is not so ill, but that he may well come, and this be found by Inquest, his Effoin shall turn him in default.

21 H.7. f.40. Effoin doth not lie in *Quare non admittit*, for that it is as a Judicial Writ.

Britton, f.281. He is effoined of sickness, and force: of sickness he appeals, as it is of those which move themselves against the Court, and are in riding taken with sickness; and Effoin of force is, as it is of those which are hindered by imprisonment, or by thieves, or of other enemies by the way; or by broken bridges, or of other passages; or hindered by tempest, or for want of Boats or Ships.

12 H.4. f.24. *Formedon* by *Thine*, If no Effoin be cast, and Recorded the first day, it lies not afterwards.

2 R.3. f.15. In a Writ of Right and *Formedon*, which is in his nature, Effoin shall be cast the first day of Effoins, and proffers, and not afterwards.

2 H.7. f. 4. The Demandant or Tenant in *Precipe* may be essoined the fourth day, and every day before the fourth day, and likewise the fourth day, notwithstanding any challenge taken by his adversary : but in a Writ judicial out of the Common Bench, the party ought to be essoined the first day, and otherwise not, if that be challenged.

18 Ed. 4. fol. 4. *Precipe*, Essoin of the Kings Service was laid, and it seems that every Essoin shall be laid the first day, or any day before the fourth day, if there be not an Exception entred, and the fourth day shall be adjourned, 1 Ed. 5. fol. 2.

2 Ed. 4. fol. 12. Before the Original be returned, the Tenant shall be Essoined, and this is a common course.

30 H. 6. f. 1. Essoin is *Michiel*, where it should be *Michael*, and shall not be amended ; for it is laid before the Writ be returned, and hath not the Writ to see it.

Every Return hath four dayes, and the first day of them is called, *The day of Essoins and Proffers*; and the next day after that, is, *The day of the Return of the Writs*; the third day is the day : the fourth day is, *The day of Appearance*. And it is an use, if one cause the Clerk of Essoins to enter (*Ne recipiatur*) as he may the fourth day ; Essoin cannot be laid after that is entred, but he may cast an Essoin the fourth day, if that be not entred : If one do not lay the Essoin the fourth day, then the next day ensuing, the Party may enter Exception, that is, (*ne recipiatur*) and after shall be no Essoin laid.

4 H. 6. f. 6. If one cast an Essoin, and appear in the Court before it be adjudged, the Essoin shall be defeated, and this by the Statute of questioning Essoins, 12 H. 4. f. 24. the same.

7 H. 4. f. 40. *Quare Impedit* by the King against R. Fulbridge, the Attorney of the Defendant was assigned at the day of the (*Venire facias*) Returned, and after that the Essoin was adjudged ; and before the adjournment, the Attorney which was Essoined comes into the Court, and was seen of the Court : and it seems after the Essoin adjudged, that he may be seen in the Court very well, though that it be not adjourned. and the Essoin very good, 11 H. 4. fol. 80. *Precipe*. 11 H. 6. fol. 53. Essoin was cast for the

the Husband and Wife, and the *Essoin* was outed for the Husband, because he was seen in the Court, and allowed for the Wife.

45 *Ed. 3. f. 24. Mortdancester* against J. which voucheth B. which was *Essoined* at the Summons to Warrant, and at the day by *Essoin* he was *essoined* of the Kings Service, and at the day that he hath to bring in his Warrant, the Tenant was *essoined*, and the *Essoin* was adjudged and adjourned.

12 *H. 4. f. 14. By Hull*, *Essoin* doth not lye after *Essoin*, nor *Essoin* of the Kings Service after *Essoin* of the Kings Service, but contrary by mean process.

9 *H. 5. f. 5. By Strange*, Common *Essoin* doth not lye after common *Essoin*, without mean degree, but after common *Essoin*, *Essoin* of the Kings Service lyeth, 21 *Ed. 3. fol. 13.* the same.

21 *Book of Assises. 11 Assise.* The Sheriff returns, that the Plaintiff hath not found pledges to prosecute, and the Plaintiff was *essoined*, and the *Essoin* adjudged, for otherwise the Plaintiff shall be non-suited.

2 *Ed. 4. f. 16.* At the great Cape returned against the husband and the Wife, the Husband casts the *Essoin* of the Kings Service where he had an Attorney in Court, and held that the *Essoin* lies well, notwithstanding that he hath an Attorney in Court; contrary of a common *Essoin*; for that cannot be where he hath an Attorney in Court.

4 *H. 6. f. 10. Dower.* At the Grand Cape the Tenant wages his Law of non-summons, and at the day *Essoin* is cast for him, and saith, That he hath an Attorney in Court; and notwithstanding this, the *Essoin* lies; for here the Attorney is out of the Court.

7 *H. 4. f. 6. Precipe* at the great Cape returned, one renders his Law by Attorney, and at the day of the Law the Attorney laid an *Essoin*, and had no day, for it was said to him, to let his master come.

19 *H. 6. f. 30. Debt*, at the day that he hath to make his Law, his Attorney was *Essoined*, and he ought not to be *Essoined*, for he is out of the Court.

18 *H. 6. f. 20. Precipe*, The Tenant hath two Attorneys, and the one is *Essoined*; and not the other, and good; for their warrant is joyn't and severall, and excuses the Master, 11 *H. 4. f. 93.* the same.

19 *H.*

19 H.6.f.37. The Attorney of one party cannot be Effoined of the Kings Service.

21 Book of Assises 7. Where the Defendant appears, and answers by Attorney, he shall not be after effoined, unless his Attorney be also effoined.

14 H.4.fol.13. *Quare Impedit*, the Plaintiff was effoined, and the Defendant saith, that the Plaintiff hath an Attorney that is not effoined; and by *Hulk*, that Challenge was entred, and at the day that the Plaintiff had by Effoin, that shall be shewed; and if it be found, then the Defendant shall have a Writ to the Bishop, and in the mean time the Effoin was adjourned.

45 Ed.3.fol.10. Debt at the Exigent, the Defendant came by *Super sedens* upon Bail, and at the day of the Exigent returned, the Plaintiff was effoined, and therefore the Defendant shall have the same day without Bail; and there agreed, if the party be effoined, and not his Attorney, that this is a Discontinuance of process; for the Attorney only shall be effoined, and every Challenge of effoin shall be entred; but it shall not be tryed before the day of Adjournment of the Effoin, unless it be challenged, for that he was seen in the Court, which shall be tryed forthwith.

11 H. 8. Tit. 41. *Formedon*, Conusance of a Plea was granted, and the Demandant sues a Re-summions, for failing of Right in the Franchise; and the Attorney of the Tenant cast Effoin, where another Attorney was Effoined upon the Original; and by the Court, this matter of Challenge cannot be now tryed; the Effoin was adjourned, but not adjudged, and it shall be tryed at the Adjournment; and if it be found, shall turn him in Default.

12 H.4.fol.25. A man hath two Attorneys, and after the view the one was effoined, and the other not, and by *Hulk*, by this Challenge the Effoin shall be adjourned, but not adjudged: and by *Hulk*, in some Case Effoin shall be adjudged, and not adjourned; as the Demandant in *Preceipe* is effoined, and at the same day protection is shewed out for the Tenant, in this Case the Effoin shall be adjudged, so that the Demandant shall not be non-suited, but it shall not be effoined.

12 H.7.f.8. *Formedon*, the Tenant makes two Attorneys

neys, and at the day, upon the View granted, the Tenant and one Attorney makes default, and the other Attorney was essoyned; and it was held clearly, that the Essoyn of one Attorney excuseth the default of the Tenant and the other Attorney; for they were Attorneys Joynt, and several.

2 H. 4. fol. 2. *Formedon*, After the View, the Tenant was essoyned, and, notwithstanding that he had an Attorney not Essoyned, the Essoyn was allowed *Sub Calumnia*; for the Attorney peradventure is removed, and agreed, if he have no Attorney in Court, he himself may be essoyned.

11 H. 7. fol. 42. Essoyn was amended in *Præcipe of Rent*, where the Essoyn was entred in a Plea of yearly Rent, where it should have been of a Plea of Land.

18 Ed. 4. fol. 4. The Writ was J. S. and the Essoyn was J. S. of *Dal.* in the County of Kent, and for this variance it was quashed, and shall not be amended, for the Clerk had no sight of the Writ; for the Essoyn was before the Writ returned.

30 H. 6. fol. 1. At the Pone in a *Quare Impedit*, the Incumbent was Essoyned, and was varying from the name in the Writ, for the Essoyn is *Mich.* and the Writ *Michael*; and adjudged that it should not be amended, for that the Essoyn was put in before the Writ came in.

10 H. 7. fol. 6. *Præcipe*, The Tenant hath view, where it was not grantable, and at the day of the *Habere facias visum*, the Tenant would have been Essoyned, and could not; in so much as the View was not grantable.

19 H. 6. fol. 80. Debt, the Defendant came by *cepi corpus*, and the Plaintiff is essoyned; by this the Defendant shall have same day without Bail; but if the Plaintiff had appeared, the Defendant should answer in Custody, and after shall be by Bail till the end of the Plea.

12 Ed. 3. Tit. 58. B. Waste, the *Venire facias* was abated, and a new one went out, and was returned, the Defendant cast Essoyn, and it was adjudged and adjourned, though there were the second *Venire facias*; for the first was as none.

19 Book of Assizes 12. Ass. The Plaintiff was essoyned, and the Writ indorsed *Tardè*, and notwithstanding that

the Justices adjudged, and adjourned the Essoyn.

21 Ed. 4. fol. 79. It seems, that Essoyn doth not lie for a Corporation for the Essoyn *de malo veniendi*, nor the Essoyn *de malo l'eti* doth not lie, for it is to excuse the Defendant; and a Corporation cannot appear in person, but by Attorney, nor an Essoyn of the Kings Service, nor of beyond the Seas; for all cannot be together by common Intendment. And Protection doth not lie for a Corporation.

10 H. 6. fol. 1. *Scire facias* by three, and two were Essoined, the Essoyn quasht by the Court, for that delays are out by *Westm. 2. Chap. 45.* 2 H. 7. fol. 10. the same.

11 H. 6. fol. 31. At the day of Imparlance the Plaintiff shall not be Essoined; also he shall not be non-suited, if he do not appear.

45 Ed. 3. fol. 19. *Præcipe*, The tenant vouches, and process continues untill the *Sequatur*, at which day the Tenant is essoined, and it lies well.

10 Ed. 4. fol. 15. *Formedon*, the parties were at Issue, and after discontinuance by demise upon re-summons, said, That the Tenant shall not be essoined: See, the Statute is, that Essoyn doth not lie, because re-summons was in the last Presentment, 1 H. 6. fol. 6. the same, 1 R. 3. fol. 4.

34 H. 6. fol. 34. *Trespas* upon re-attachment, the Tenant was essoined, and said, that it lies.

44 Ed. 3. fol. 4. *Aff.* Discontinued for not coming of the Justices, and upon re-attachment the Plaintiff is essoined, and it lies; and yet the Statute of *Westm. chap. 41.* is, Who hath once appeared in *Affise*, shall not be afterwards essoined, 44 Book of *Affise*, 24. the same.

22 Ed. 3. fol. 10. At the *Venire facias* returned, the Defendant put the Paroll without day by Protection; and at the re-summons he was essoined of the Kings Service, and had it.

21 Ed. 3. Tit. 35. B. Paroll was put without Day in a *Præcipe* against a Prior, for that, that the King had sent a *Superfedas*, that he had seised the Land for War, for that the Tenant was a Prior Stranger, and after demand at the *Procedendo*, and re-summons where the Paroll was put without Day before, after *Venire facias* returned, and the Jury appeared; and at the Day of the re-summons returned, the Prior was essoined and was challenged, for that, that the Prior was another time essoined upon the

Venire facias in the first Action, and it was not allowed, but the *Essoin* admitted.

30 *Book of Ass.* 51. *Mordancester*, at the re-summions the Tenant cast an *Essoin*, and it was quasht by the Statute *De Calumniandis*.

Wardens of Churches.

- Though the Statute for High-way's not repaired, give all Forfeiture of those Statutes to Church-wardens, yet they are no Corporation; and it is fit to see what things they may take, and what not; and what Interest they have in things of the Church, and where they may be removed, and where not; and what Interest the Parson hath.

Parishioners shall have no Action of Account against Wardens, but they may choose other Wardens which may have account against the first Wardens, 8 *Ed.* 4. f. 6.

37 *H.* 6. fol. 32. If a Book be given to the Parishioners of such a Church, to the use of the Church; the Wardens shall have Trespass against him, which takes this out of the Church.

10 *H.* 4. fol. 9. Church-Wardens shall have Trespass of Bells taken, though the Defendant hangs them in the Steeple; and though they are annexed to the Church, they are no parcel: Parson shall have Trespass of Windows, and Trees in the Church-Yard cut, and the Wardens shall have Trespass of the Ornaments taken.

8 *H.* 6. fol. 9. Parson brings Trespass of entring in a Close and House which was the Church-Yard and the Church, and it seems that he hath interest in that.

38 *H.* 6. fol. 19. Parson shall have Assise of Church-Yard or Glebe.

8 *H.* 7. fol. 12. The Free-hold of the Church is to the Parson, and the Pewes are Chattels, unless they be fixt; but some have Pewes there by Prescription; but the Pewes fixt there, are the Free-hold to the Parson.

21 *H.* 7. fol. 21. Church-Yard and Church are to the Parson, and he shall have Trespass of Trees cut in the Church-Yard: *Abridgement of Assises*, fol. 112. *Assises*. It is a good Plea for the Defendant at the Jurisdiction of the

Court to say, that he is Parson, and that it is parcel of his *Church-Yard*.

15 H. 7. fol. 8. *Church* and *Church-Yard* are to the Parson, that is, the Free-hold of them.

30 Ed. 3. Tit. *Account, Statbam*; See there that the *Church* is to the Parishioners.

Brit. fol. 84. *Church-Yard*, *Burying-places*, *Church*, or *Chancels* are to none. *Seek*.

9 Ed. 4. fol. 15. Indictment by the *Church-Wardens*, why by force of Arms, the Goods of the Chappel, &c. being, it seems good; and it seems, if it were the Goods of the Parishioners, it were better.

8 Ed. 4. fol. 6. Trespass by the *Church-Wardens*, and it is to the loss of the Parishioners; and it seems they are a Corporation for personal things.

9 Ed. 4. fol. 15. Trespass was brought by Dame *Wiche* against the Parson, for taking a Coat-Armor, certain Pendants, with the Arms of Sir *Hugh Wiche* her Husband: and it seems, that a Parson shall not have that, nor the *Church-Wardens*, for they are hung there for the honour of the body of him that was buried there.

37 H. 6. fol. 32. *Church-Wardens* shall have Trespass of the Goods of the Parish taken, and an Appeal of Robbery.

12 H. 7. fol. 33. Wardens of the *Church* cannot lett Lands, nor take Lands, but they may have Goods.

Abridg. of Ass. fol. 76. *Church-Wardens* may have an appeal of Robbery of the *Church* Goods.

13 H. 7. fol. 9. *Church-Wardens* cannot lett Lands: for the Law gives them Authority to receive Goods, but not to depart with any thing, and may have Trespass of Goods of the *Church* taken.

8 H. 5. fol. 4. To the Wardens of the *Church* are the Books, and Bells, and Goods of the *Church*.

Doct. and Student, fol. 118. For not inclosing the *Church-Yard*, and for not sufficient repairing the *Church*, shall be a complaint to the Ordinary.

Waging of Law.

Then for that, that the Ancient Trial in Court-Baron is by waging of Law, and also in Plaints for Copy-hold Lands of non-Summons; it is needful to say something of waging of Law: and what will save his default; and where, without waging the Law of non-summons.

Trial, That in Court-Baron the Trial is by waging Law, but it may be by a Jury, by-consent of the Parties, 33 H.8. fol.143.

18 H.8. fol.3. Of Detinue, and Counts of delivering of Goods by another hand, the Defendant may wage his Law; for the Detinue is the cause of Action, and not the Delivery: But in Account and Counts of a Receipt by another hand, he cannot wage his Law; for the Receipt is transferable, 34 Ed.3. fol.61.

26 H.8. fol.26. *Detinue*, It seems, though the delivery were by Deed, it may be discharged by matter in the evidence by re-delivery, and in account of receipt by the Plaintiffs own hand; and he shews a Deed testifying that, yet the Defendant in these cases may wage his Law, 16 Ed.3. tit.57. F. See 27 H.8. fol.26.

Account, the Defendant shews a Deed, witnessing the receipt, Defendant shall not have his Law.

Debt upon Arbitrement for money awarded, Defendant may wage his Law; for he hath notice of the award, and ought to take notice of it; and so it seems in Debt against a Husband and his Wife; for Debt of the Wife, for the Wife is party alwayes, 1 H.7. fol.25.

10 H.7. fol.18. In debt upon a Statute of Cappers, Defendant cannot wage his Law, for it is a matter of Record, 30 Ed.3. Where the King is party, Defendant cannot wage his Law.

13 H.7. fol.3. Debt against a Successor of an Abbot, where Predecessor makes a Bargain, that is, buying Fishes which comes to the use of the House, and the Successor hath his Law, and yet it was of another Contract.

1 H.7. fol.25. Contrary, for he hath notice of the Bargain, and said, If my Servant buy a Horse for me, in debt

against me of that Contract, I may wage my Law, 13 H. 7. fol. 3.

2 H. 4. fol. 16. Where the Testator may wage his Law, no Action lies against the Executors, 15 Ed. 4.

3 H. 4. fol. 3. Where the Defendant is ready to wage his Law, and the Plaintiff is Demandant, and makes default, he cannot be non-suited, where before he appeared in Court. But if he had imparled to this day, he might be non-suited.

6 H. 4. fol. 2. In Debt for Damages recovered in a bafe Court; the Defendant tenders his Law, but shall not have it, 34 H. 6. fol. 64.

21 H. 4. fol. 54. In Debt for Money awarded upon arbitrament, the Defendant may have his Law, 22 H. 6. fol. 46. the same, 2 H. 5. fol. 6. the same.

8 Ed. 4. Detinue of Charters, held by all the Justices That the Defendant may traverse the Delivery generally, for that, that he could not wage his Law, but in Detinue of Charters. If the Plaintiff doth not intitle himself to Land, the Defendant he may wage his Law: for if one give to me a Deed of Feoffment, it is but a Chattel in me; as I have not the Land.

9 Ed. 4. fol. 1. Debt, where a man lets a Chamber to the Defendant, and takes his Wife and Son to Table, rendering for the Chamber and Table, six shillings a week; Defendant cannot for his Debt wage his Law.

9 Ed. 4. fol. 25. Debt against the Husband and his Wife for debt of the Wife, before the marriage; both shall wage their Law, for by the marriage the Debt is the Husband's, 15 E. 4. fol. 2. the same.

16 E. 4. fol. 15. Debt of the sale of Clothes, the Defendant may wage his Law. The same Law is in debt for wages, unless the retainer be according to the Statute of Labourers.

21 E. 4. fol. 26. Debt for a Horse sold for 10l. where there were two, or the contrary; or if he count of a Cow where it was a Garment, it seems he may wage his Law by Conscience, for it is another Contract.

22 E. 3. fol. 2. Detinue, if a man deliver to me Goods in satisfaction of Debt due to me, and after having brought Detinue, Defendant may wage his Law; for the property is changed, and detinue of a thing of four Ounces, which is but

but two, the Defendant may wage his Law; the same law in detinue of a white Horse, which indeed is bay. The same in detinue of Cloth of 20 yards, where it is but 13, the Defendant in these Cases, by conscience may wage his Law.

34 H. 8. tit. 79. Detinue of a Deed indent of a Lease for years, the Defendant cannot wage his Law; for this concerns Land, and a Chattel real.

21 Ed. 4. tit. 79. Detinue of a Chest with Writings ensealed, or of a Box ensealed with Writings, the Defendant may wage his Law; and where he counts of a Chest ensealed with Writings, and of a special Deed, the Defendant may say to this Deed, He detains not, and to the rest wage his Law, 19 H. 6. fol. 9. the same. And 38 H. 6. fol. 25. the same, 44 Ed. 3. 1. and 10 H. 6. fol. 20.

12 R. 2. tit. 43. Debt for amercement in Leet, Defendant shall not have his Law.

39 H. 6. fol. 36. Debt upon a Bargain; the Plaintiff shews a Deed, witnessing the receipt of it; yet Defendant shall have his Law.

32 H. 6 fol. 19. Debt for a Sallary in Husbandry retained, Defendant shall not have his Law.

8 H. 4. tit. 5. *Quo minus* B. A man shall not wage his Law, in a (*Quo minus*), where one sues that for Debt, and payes the King, 3 H. 6. fol. 28. the same.

32 H. 8. tit. 112. It was spoken for Law, that a man shall not wage his Law in (*Quo minus*). But see Tit. 102. P.

2 H. 5. fol. 6. Debt for money awarded by Arbitrators, Defendant shall have his Law; for they are not Judges of Record, 5 H. 4. the last, the same.

9 H. 5. fol. 5. Debt upon Arrearages of account before Auditors, Defendant shall not have his Law for that, because they be as Judges of Record; otherwise it is, of Arrearages before the Plaintiff himself, 5 H. 6. fol. 17. 43 Ed. 3. fol. 1. 49 Ed. 3. fol. 3.

38 H. 6. fol. 6. The Lord in Debt against him of Surplusage of account, he may wage his Law by *Priscot*.

38 H. 6. fol. 14. Debt for wages, he counts that he was retained to serve in Husbandry, Defendant could not wage his Law; and if he count of another retainer, he may have his Law.

38 H. 6. fol. 24. If a Gentleman be retained in Husbandry in Debt for their Sallary, Defendant cannot wage

his Law. But if a Gentleman, or a Carpenter be retained in other Art than Husbandry, in debt for their wages, the Defendants shall have their Law, 39 H. 6. fol. 19. 3 H. 6. fol. 43. the same.

1 H. 6. fol. 1. Debt, and Counts, That he left to the Defendant certain sheep, paying for every sheep by the year 4 d. and 15 d. for every sheep dead; Defendant tenders his Law forthwith, and had it. The same Law is in debt upon Arbitrament. But otherwise it is in debt upon a Lease of Land rendring Rent.

3 H. 6. fol. 14. Debt, Defendant imparles till a next day, and then comes and tenders his Law forthwith; And for that, that all was in one self-same Term, the Plaintiff should not be demanded to be non-suited. But for that, that he said nothing, it shall be intended acknowledged by him. But if he had imparled till another Term, Plaintiff shall be demanded, and may be non-suited.

3 H. 6. fol. 34. Debt by Counsellor, and how he was retained by 20 l. yearly, and the Plaintiff ought to count that he hath given him Counsel; and the Defendant tenders his Law, and had it. But in debt for wages of a common Labourer, Defendant cannot wage his Law, for it is certain by the Statute.

3 H. 6. fol. 43. Debt of 40 s. for Tallow, the Defendant saith, That he bought the Tallow for 3 s. 6 d. which he is ready to pay, &c. And to the remnant tenders his Law, and had it: and for that it was the same Term, Plaintiff shall not be demanded: But if it were in another Term, he shall be demanded.

4 H. 6. fol. 25. Debt upon arrearages of account, before an Auditor, Defendant tenders his Law, and had it, 20 H. 6. fol. 17. the same.

8 H. 6. fol. 58. Debt upon Arbitrament, Defendant shall have his Law, and in detinue of delivery by anothers hand, but not in account of receipt by another hand.

10 H. 6. f. 20. Detinue of writings ensealed, and counts of one, especially of the Land, the Defendant may plead barr to that, and to the remnant tender his Law, and had it.

11 H. 6. f. 11. If debt be upon a Lease and bargain, or upon an Obligation, and Bargain, Defendant may plead to the Obligation, and to the Bargain wage his Law,

14 H. 6.

14 H.6. fol. 1. the same, 19 H. 1 fol. 10. the same, 33 H.6. fol. 26.

44 Ed.3. f. 41. Detinue, where the Plaintiff counts of a chest for writings, the Defendant may wage his Law, but if he counts of a special Writing concerning Land, he cannot wage his Law of that, but of the Chest, and the residue.

46 Ed.3. fol. 6. Debt upon Contract for 40 s. the Defendant saith, That he doth not know the Contract to be made for so much: but only for 4 s. which he hath been always ready to pay, and yet is: And to the 40 s. he owes him nothing, ready to wage his Law, 3 H.6. fol. 43.

49 Ed.3. fol. 3. Debt upon arrearages of Account, found before Auditors assigned by the party out of the Court, and the Defendant renders his Law, and had it.

21 H.6. fol. 48. Detinue of two Writings Obligatory, the Defendant may wage his Law.

7 R.2. tit. 42. Fitzh. Debt upon a Lease of Land, the Defendant shall not have his Law.

12 R.2. tit. 43. F. Debt for Amerciament in Leet, the Defendant shall not have the Law.

14 Ed.3. tit. 49. F. Account of Receit by his own hand, the Defendant shall have his Law, 25 Ed.3. fol. 46. the same.

5 Ed.3. tit. 54. F. Account of Receit by the hands of his Wife, the Defendant shall have his Law.

14 Ed. 2. tit. 69. F. Account of Receit by other hands, the Defendant shall not have his Law, 17 Ed. 2. tit. 72. the same Case.

27 H.8. fol. 26. Account of Receit by his hands, and shews a deed witnessing that, yet the Defendant may wage his Law.

39 H.8. fol. 36. Debt upon a Bargain, the Plaintiff shews a Deed witnessing that, yet the Defendant shall have his Law. See before, 26 H.8. fol. 26.

18 Ed.3. fol. 53. One which his dumb, waged his Law by signs, and the words were read to him, and he put his hand upon the Book, and kist it, and so waged his Law without words.

21 H.6. fol. 47. Where a Lumbard waged his Law.

22 H.6. fol. 14. Debt for Commons of one, Defendant shall have his Law, 1 Ed.4. fol. 5. 9 Ed. 1. f. 1. the same.

28 H.6.

28 H. 6. f. 14. Debt against a Prisoner of the Tower for his meat, he shall not have his Law; for the Plaintiff is compellable to give to him.

27 H. 6. fol. 16. If the Tenant at the day of the great Cape appear and tenders his Law of non-summons, and the Sheriff do not return the Writ, yet he may wage his Law, for he hath day by Roll.

33 H. 6. fol. 8. *Præcipe*, At the day of the great Cape returned, the Tenant saith, That he was not summoned, ready to prove by the Country, and shall be tryed by waging Law, and not by the Country, unless upon special matter shewed, as if the party were sick, or it be a Mayor and Commonalty, or be a Recluse: and waging of Law shall be by 12. hands, that is, 12; and he himself shall be sworn: But the use is in Court-Baron by six.

40 Ed. 3. fol. 40. *Cessavit* against three; which 3. at the day of the great Cape returned, waged their Law of not summoned: and at the day two make default, and the third appeared and tendered the arrearages, and could not, unless for the third part, for that, that they are joyned in tender.

41 E. 3. f. 2. *Præcipe* against two, they wage their Law of not Summomed and at the day one comes, and the other not: And he which comes wages his Law, and awarded, That the Demandant should recover the half against him which made default, and took nothing by his Writ against the other, 40 Ed. 3. f. 35.

48 E. 3. f. 13. *Cessavit* against three; they wage their Law of not summoned at the day, the great Cape returned, and at the day gives them to make their Law; two appears, and wage their Law, and the third makes default, and the Writ abates for two parts, and one was received for the third part in default of the three; and so the Writ shall be for the third part.

40 E. 3. fol. 35. Debt against two, which tender their Law, and at the day one makes default, and the other was ready to wage his Law, and waged his Law: and for that, that the Plaintiff suffered that, he was barred. And yet where the two rendred their Law, and at the Day one made default, this was the default of both, if the Plaintiff had prayed it, and not suffered the Law of one.

44 Ed. 3. f. 38. *Præcipe*, The Tenant wages his Law, of not summoned, the Writ shall abate.

7 H. 4. f. 3. *Præcipe*, The Tenant makes default after apparance, by which issues *Petty Cape*, at which day he appears by Attorney, and the Attorney wages his Law, and day given for his Master against another day to make his Law.

7 H. 4. f. 7. The waging of Law shall be in person by the Tenant, and not by Attorney.

24 Ed. 3. tit. 57. If summons in *Præcipe* be not served fifteen days before the first day of the return of the Writ, the Tenant may wage his Law of not summoned.

42 E. 3. f. 7. *Præcipe* at the great *Cape* returned, the Tenant tenders his Law of not summoned, and at the day comes to wage his Law; and the Demandant offers to waive the default, and Prays that the Tenant may plead in chief. But cannot, if the Tenant will not assent, by which he made his Law, and the Demandant takes nothing by his Writ. But at the first day that the Tenant offered his Law, the Defendant might have released the Default, 27 H. 8. f. 17. the same.

2 H. 5. f. 1. *Formedon* at the great *Cape* returned, the Demandant is essoyned, and for that the Tenant need not wage his Law, for the default is saved, 18 H. 6. fol. 6.

3 H. 6. f. 50. the same.

8 Ed. 4. f. 2. *Præcipe*, If the Demandant be essoyned, the day that the Tenant tenders his Law, the default is saved, and he need not wage his Law of not summoned. But if it be at the day that he hath waged his Law, it is otherwise, for he cannot release the default, 33 H. 6 f. 49. the same.

7 Ed. 3. tit. 51. Saving default, *Fitzh.* at the *Petty Cape* returned, the Defendant was essoyned, and had day over, at which day he took him to the default, and the Tenant was put to answer the default, notwithstanding the said Essoin, 5 *Book of Ass.* 11. the same.

4 Ed. 3. tit. 62. *F.* At the great *Cape* returned, the Demandant was essoyned, and day given over, at which day the Demandant took him at default, by which it was awarded, That he take nothing by his Writ.

3 H. 6. f. 48. *Præcipe* at the great *Cape* returned, the Defendant saith, That he was imprisoned by J. S. upon a Statute Merchant, by vertue of a Statute acknowledged to him,

him that he could not come ; and notwithstanding that this was his own act, that is to say, the acknowledging the Statute and not praying it, yet the Imprisonment was by the Act of the Law, and his default, and by that Plea his default was saved. The same Law of increase of water, 12 Ed. 4. f. 44. Saving default F.

42 Ed. 3. f. 7. *Precipe* at the *Petty Cape* returned, the Tenant saith, That he was in Prison at the time of the Default made, ready, &c. And the Demandant to the contrary, that he was at large ; and the Enquest taken, and found that he was in Prison, by which the Demandant took nothing by his Writ. 13 Ed. 3. Tit. 49. F.

18 Ed. 3. tit. 35. F. At the great Cape returned, the Tenant saith that he was in Prison, &c. The Demandant saith that he was in Prison by his own consent, and by fraud to save his default. And the Tenant was driven to aver, that he was in Prison against his Will, and upon the Issue taken: 14 Ed. 3. tit. 39. F.

13 Ed. 3. tit. 49. At the *Petty Cape* returned, the Tenant saith that he was in Prison upon a Statute, &c. and the Demandant saith, that that was by Covin, and so Issue taken that he was in Prison against his Will, taken, and others to the contrary.

39 H. 6. fol. 17. The Attorney may save the default where his Master came, and for that both may save the default by increase of water, and by Imprisonment, and not by weakness, neither of the one nor of the other ; for that cannot be tryed if he may come without unavoidable perill of death, or no.

38 H. 6. fol. 12. Weakness of an Attorney is not sufficient to save a default, but increase of water, and Imprisonment is a cause. See 50 Ed. 3. fol. 9. And the Tenant plead in abatement matter for mischief of War, and death, which proves the Writ abated without saving his default.

40 Ed. 3. fol. 2. *Precipe* against Hison of *W. Osmond*, the Tenant at the great Cape comes without saving his default, and saith, that his Father is named *Edward*, and not *Osmond*, and for mischief of the War he shall have that plea, before default saving by waging of Law.

40 Ed. 3. fol. 42. *Formedon*, at the day of the *Petty Cape*, the Tenant commeth and saith, that the Demandant hath entred

entered hanging the Writ, and cannot have that Plea in abatement before the default saved.

40 *Ed. 3. fol. 18. Precipe* against the Husband and *Isabell* his Wife, they come before the default saved, that the Wife is named *Elizabeth*, and had for the mischief of the war.

14 *H. 4. tit. 15. Precipe*, the Tenant saith, that the Demandant is out-lawed, and shall not have this before default saved.

38 *Ed. 3. 17. At the great Cape* against three, they alledge several Tenancy, and the Writ abate, if he do not maintain. And they shall not wage the Law of nor summoned, for then they admit the Writ, and that they are Tenants as the Writ supposeth, 12 *Ed. 4. f. 1.*

14 *H. 7. 6. Precipe* at the great Cape, the Tenant would plead Joynt-tenancy, and could not before his default saved, for this comes upon the view, 42 *Ed. 3. fol. 11. the same.*

21 *Ed. 4. fol. 19. Precipe* against two at the great Cape, one Tenant pleads that the other is dead after the day of the default, and for that, this plea proves the writ abated, he shall have this plea before his default saved, 20 *H. 6. f. 2. the same.*

42 *Ed. 3. fol. 3. Precipe* against two, one Tenant may plead that in the conclusion of the Writ, the one is left out, and the Writ for that is abated before the default saved.

Pleas after Continuance and Imparlance, and what not.

Assise, Where they are adjourned upon plea in Bar, it seems that he shall not have but one plea after the last continuance; for otherwise he may delay the party infinitely: 28 *H. 6. f. 1. 9 H. 7. f. 9. 9 H. 6. f. 22. Quare Impedit*, clearly agreed, that a man shall have but one plea after the last continuance upon matter in Deed: And by some the same Law is, where it is by matter of Record.

1 *Ed. 4. fol. 3. Ass.* It seems that one cannot have divers Pleas after the last continuance.

2 *H. 6. f. 13. Entry in the Post*, If the Demandant enter, and after there is a continuance, yet he may plead that, for that, that it is abated; and it is folly of the Demandant to abate his own Writ, 7 *H. 6. f. 15. the same.*

7 H.7. fol. 16. *Quare Impedit*, It was pleaded in abatement, Plaintiff was made Knight after the last Continuance, Judgment of the Writ, and he had it.

20 H.6. fol. 17. Trespass after Imparlance, the Defendant saith, That the Plaintiff was made Knight, day of the Writ not named Knight; Judgment of the Writ, and had that Plea.

35 H.6. fol. 5. Where a man is sued by the name of J, Prior of the Church of St. Peter of D, and imparls by an Attorney, he shall not plead in person afterwards, that he is Prior of the Church of St. Peter and Paul, for that is parcel of the name, which cannot be pleaded after Imparlance, for that doth not stand with, &c.

35 H.6. fol. 37. Trespass against J. S. of D; after imparlance, he demands Judgment of the Writ: for, day of the Writ purchased, he was dwelling at S, and not at D; and shall not have it, for it is contrary to the name which he hath affirmed by the Imparlance.

32 H.6. fol. 35. After Imparlance, the Defendant cannot plead, that he is dwelling in another place, than is in the Count, 19 H.6. fol. 1.

35 H.6. fol. 43. Debt against J. S, as Ex-cutor of J D, and he imparls; he shall not say after, that he is Administrator, and not Executor, 32 H.6. fol. 32. The same, 36 H.6. fol. 17.

37 H.6. fol. 32. If the Defendant in personall action imparle, and at the day makes default, Judgment shall be given, and in a real action shall be awarded a Pery Cape: 7 H.6. fol. 30. 11 H.7. fol. 5. 38 H.6. fol. 36. 39 H.6. fol. 17.

4 H.7. fol. 12. If a man in Debt upon an Obligation imparl, before he demands hearing of the Obligation and Condition, and hath that entred, he cannot plead the Condition afterward; for he shall not have hearing of that, if he do not alledge variance.

13 H.7. fol. 17. *Precipe* of Lands in D, the tenant imparls, and at the day, he may say, No such Town, 9 Ed.4. fol. 33. the same, 7 Ed.4. fol. 1. Trespass.

16 H.7. fol. 17. Debt by Prior, the Defendant imparls, and at the day saith, That the Plaintiff is deposed, for that goes in Bar.

7 Ed.4. fol. 1. Trespass against J. S. de D, in the County of

of *Middlesex*, after *Imparlanee*, the Defendant cannot say, No such Town D. within the said County: but he may say, There is upper D. and nether D. and none without addition. 22 *Ed. 4. f. 1.* the same.

9 *Ed. 4. f. 38.* *Precipe*, after *Imparlanee* one may plead *Non-tenure* and *Joynt-Tenancy*: But in *Precipe* of Lands in D. and S. the Tenant imparls, and at the day saith, That D. is an *Hamlet* of S. without that, that there is any Town or place known out of the Town named D. in the same County, Judgment of the Writ, and hath the Plea by the whole Court.

9 *Ed. 4. fol. 42.* Debt against Executors after *Imparlanee* he cannot say that the Testator dyes *Intestate*, and that the Administration was committed unto him, Judgment of the Writ, for he is stopped by the *Imparlanee*, but he may plead never Executor, nor ever administrated as an Executor, for that is with the, &c. 32 *H. 6. fol. 32.* the same.

28 *Ed. 4. fol. 19.* Writ is abated by death, and abateable by *Joynt-tenancy*, and several *Tenancy*, and where a man is made Knight, or a Woman takes an Husband, and such like, and saith, where a Writ is abateable if he Imparl, or take continuance, he cannot plead in abatement: But otherwise it is, if it were abated. See 7 *H. 6. fol. 16.* and 20 *H. 6. f. 17.* And note that it is pleaded there, that the Plaintiff is a Knight.

44 *Ed. 3. f. 4.* After *Imparlanee* the Defendant may plead to the Action, as to say, that the Plaintiff is a Canon professed, &c. But he cannot plead to the Writ, unless he come after the continuance, unless it were for that, that the Writ is abated at death, &c.

20 *Ed. 4. fol. 9.* Debt upon a Lease of a *Corodie*, the Defendant Imparles, and after that shall have hearing of the Deed. See 4 *H. 7. fol. 12.*

4 *H. 7. fol. 17.* *Replegiare* against three which Imparl joyntly, and one makes default, the other cannot plead no such in being, as one is, which makes default.

11 *H. 7. fol. 5.* Debt for Corn, the Defendant imparls, and at the day makes default, there shall go a Writ to inquire of the value. See 37 *H. 6. f. 32.*

15 *H. 7. fol. 14.* Attorney for Corporation after *Imparlanee*, he cannot plead that they are Corporate by another name.

32 H.6. fol. 12. Where a Writ is abated, he may plead that, though there be a continuance, as to say, That the Plaintiff is dead, or hath an Husband day of the Writ; but if it be abateable, it is otherwise; he may say, That after the last continuance, is made Knight, Judgment of the Writ, &c. where it is abateable.

34 H. 6. fol. 40. Debt upon Obligation by three, the Defendant pleads not his Deed; yet he may plead that after the last continuance one Plaintiff is dead.

22 Ed. 4. fol. 36. Trespas, the Defendant after *Imparlanee*, may say, that the Plaintiff is his wife, Judgment if Action; or that the Plaintiff is a Monk professed. And in *Montdancester*, that the Defendant is a Bastard. And in Debt against Executors, after *Imparlanee*, he may say he was never Executor, nor ever administred as Executor; for these are disabilities which go in bar.

32 H.6. f. 32. It seems a man may plead after a Continuance, that the Plaintiff is a stranger born, or Monk professed, Judgment if action, and not to the Parson, 36 H.6. fol. 9.

7 H.6. f. 39. It seems, that after *Imparlanee* one cannot plead to the Jurisdiction, unless it be after special *Imparlanee*, saving all advantages, as well to the Jurisdiction of the Courts as to the Writ, and Declaration.

19 H.6. f. 7. Debt by Executor, which shews the Will (as it behooveth) and after the Defendant *imparles*, there he shall not have reading of the Will again, 38 H.6. fol. 2. But if he plead Variance, he shall have (Reading) and so in Debt upon Obligation.

16 Ed. 4. f. 4. Debt upon specialty, the Defendant may plead Outlawry in the Plaintiff, though he hath *imparled*, for that is a barr, and intitles the King.

4 Ed. 4. fol. 15. Debt, after *Imparlanee*, one space in the Count cannot be in another Term.

39 H.6. fol. 21. Debt upon arrears of annuity, after *Imparlanee*, the Defendant cannot have hearing of the Deed: But if the Defendant plead, that it was made in another County than where the Writ was brought, and then he shall shew, 39 H.6. f. 17. the same.

Pleas after day given.

IF the Defendant imparle, and make default, he shall be condemned, and upon day given shall issue process, 7 H. 6 fol. 42.

10 H. 8. f. 6. Note, by all the Prothonotaries, that (day given) is ever before the Count, and Imparlance is after the Count, and therefore where three *Capias* and *Exigent* is awarded, and the Defendant appears upon the *Exigent*, and hath (day given) and after makes default, *Distringas* shall go, and upon that returned (*Nihil*), other 3. *Capias* and *Exigent*, and upon default in personal Action, he shall be condemned. See 7 H. 6. fol. 42.

20 H. 6. fol. 17. Trespass, the Defendant at the day which he hath by *Imparlance* saith, That the Plaintiff was Knight day of the Writ purchased, not named Knight, Judgment of the Writ, and had Plea by Judgment. Otherwise it is said after continuance by (day given.)

42 Ed. 3. fol. 1. debt, the Defendant came at the *Exigent*, by (*Reddidit se*) and was bailed, and the Plaintiff came and prayed by *Prece partium*) and had it notwithstanding that the Defendant was by Bail, for that is by agreement of the parties.

8 H. 5. fol. 8. After day given, and the special Imparlance, the Defendant may plead in abatement, and not after general *Imparlance*.

14 Ed. 4. fol. 14. If the parties be at Issue, and the Demandant releases to the Tenant, and he takes continuance by request of the parties, he shall not plead the release.

22 Ed. 3. fol. 8. The Tenant after the (request of the parties) was received to plead Joynt-Tenancy by Fine.

Pleas after Issue, and at the Nisi Prius day in Bench, and after Verdict.

DOwer by *Thorp*, the day of the *Nisi Prius*, and the day in Bench, is not all one to all respects, for a Writ purchased mean between the *Nisi Prius* and day in Bench, shall abate, for the first Writ is hanging till Judgment be given, notwithstanding the Plaintiff was non-suited at the *Nisi*

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Prius.

Prins. But as to plead any Pleas, which come mean between them, there shall be one same day, 40 Ed. 3. f. 38.

28 H. 6. fol. 1. A man may plead a Plea after last continuance at the *Nisi Prins.* Inquire what Pleas.

34 H. 6. fol. 45. At the day of the *Nisi Prins.* the Defendant pleads to the Writ, That one of the Plaintiffs was dead after the last continuance at D. in the County of Dayby. Judgment of the Writ, and had it.

47 Ed. 3. fol. 2. If it be found against the Plaintiff at the *Nisi Prins.* and the Plaintiff makes default at the day in Bench, yet Judgment shall be upon the Verdict, for that is all one day, and the day of the *Nisi prins.*

10 H. 7. fol. 21. debt upon a Lease for years, and the Issue was levied by distress or not; and now at the *Nisi prins.* he could not plead a Release made after the last continuance.

19 H. 6. fol. 36. Forging of False Deeds against many, they were at Issue, Proces continued against the Enquest till the Jury appeared; at which day the Defendant pleads arbitrament after the last continuance; and upon this the Jury was discharged.

21 H. 6. fol. 10. *Nisi prins* was returned *Osta. Mich.* that is, the day in Bench, and one Plaintiff died after *Osta. Mich.* and before Judgment given upon the Verdict; And the Defendant may plead that, for Judgment shall have relation to *Osta. Mich.* and then the Defendant cannot have remedy by Writ of Error, *Audita Querela*, nor otherwise; therefore he shall have the Plea again. But it seems, that the Defendant cannot plead Release made to him, by the Plaintiff after Verdict, for he shall have an *Audita Querela*; contrary of his death, the day of *Nisi prins*, and the day in Bench were all one self-same day, and no mean time; and therefore Release, made mean between these two, cannot be pleaded at the day in Bench, notwithstanding it seems at the day of *Nisi prins* before the Jury taken, The release which is made mean between the Award of the Writ of *Nisi prins*, and the day of the *Nisi prins*, may be pleaded at the *Nisi prins.* See 10 H. 6. tit. 53. and tit. 55. Br.

22 H. 6. fol. 1. Dower, It seems if the Plaintiff release to the Defendant mean between the Award of the *Nisi prins*, and the day of the *Nisi prins*; there, if the Jury remain to default of Jurors, the Defendant may plead this Release as
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the day in Bench after the last continuance, though he did not offer it at the day of *Nisi prius*; and contrary it seems if the Jury had been ready at the *Nisi prius*.

36 H. 6. fol. 24. At the *Nisi prius*: the Enquest past for the Plaintiff, and he released before the day in Bench, the Defendant shall have an *Audita Querela*; and of this it followes, that the Defendant cannot plead that at the day in Bench after the last continuance, 34 H. 6. fol. 3.

21 H. 7. fol. 33. After the Enquest taken by default, the Defendant cometh before Judgment, and pleads, That he and the Plaintiff have put themselves to Arbitrament after the last continuance, &c. And by the Opinion of the Court, he hath no day in Court to plead that Plea. And it was said, that he shall plead no plea in such case, but as a friend to the Court. But of matter apparant he shall be received; but in the Kings case, he shall have that by Plea; for he hath no other remedy. But in the case between common persons, he shall have *Audita Querela*: contrary, against the King, 11 H. 7. f. 10. tit. 8. 61.

38 H. 6. f. 33. Debt by *Moile*, the Defendant after that he was at Issue, might once plead Plea after the last continuance, as release or such like, notwithstanding no other than once.

41 Book of Ass. 19. If Verdict passe for the Plaintiff, and the Defendant get a Release before Judgment, yet he cannot plead that.

21 Ed. 4. fol. 52. Adjudged, That the Defendant cannot plead Release, made mean between the *Nisi prius*, and the day in Bench.

16 Ed. 4. fol. 5. A man may plead a Plea after the last continuance after issue joyned, and in another Term. And therefore it seems, that the parties have day in Court as well after issue joyned till Verdict, as before, 50 Ed. 3. fol. 4.

Imparlance at a day in the same Term, and at a day and term between, and Imparlance of the Plaintiff.

Continuance by *Capias* ought to be made from Term to Term, and cannot have other Term between; for that, that the party shall not stay so long in prison, but continuance by distress may be made by a term between,

as from *Michaelmas Term* to *Easter*, 8 E. 4. fol. 13.

12 H. 7. fol. Common recoveries for assurance, the Tenant tenders issue, the Demandant may imparl to a day in the same Term.

44 Ed. 3. f. 16. If a man imparl to another day in the same Term, or till the next day, yet that is a new day, at which the parties are demandable.

37 H. 6. f. 27. Debr, Defendant pleads misnaming of himself, and the Plaintiff imparls, and had it.

22 Ed. 4. fol. 19. Where the Defendant in Appeal of Robbery, by which he puts his life in Jeopardy, the Plaintiff shall not imparl to that, and therefore ruled, That he should answer the Court sitting.

What Pleas he shall have after the last Continuance.

WHere the parties and Jury appear at the fourth day in the Common-Bench, and are adjourned, at another day, a man may plead a Plea after the last Continuance, 28 H. 6. fol. 1.

8 Ed. 4. fol. 9. Where a man pleads death of the Defendant, hanging the Writ, he shall not plead that after the last Continuance; for that by this the Writ is abated in deed: Contrary of a Plea which proves the Writ abatable.

34 H. 6. f. 49. At the day of *Nisi prius*, the Defendant pleads to the Writ, That one of the Plaintiffs was dead after the last continuance, D. in the County of *Darby*, Judgment of the Writ and the Plea recorded, and the matter adjourned, and had that Plea, 14 H. 6. fol. 9.

38 Ed. 3. fol. 5. *Præcipe* by a Woman, the Tenant tenders his Law of not summoned, and at the day was effoined, and at the day saith, that the Demandant took a husband after the Law tendered, and for that, that he did not say after the last continuance, that is after the effoyne, it was held no Plea.

4 H. 7. fol. 8. A man shall have but one Plea after the last continuance, 38 H. 6. fol. 33. the same.

16 Ed. 4. fol. 5. A man may plead a Plea after the last continuance after Issue joyned, and in another Term, till Verdict, but not mean between *Nisi prius* and the day in Bench.

9 H.7. fol.8. A man shall not have a Plea after the last continuance, unless such Pleas which were not in being, at the time of the first Plea; for otherwise it is not after the last continuance.

Maintenance.

As much, that Maintenance may be the better avoided; let us see what Maintenance is forbidden by the Law.

That no Clark of a Justice or Sheriff shall maintain parties in quarrels, nor in businesses which are in the Kings Court, *Westm. 2. chap. 28.*

That none of the Kings Counsellours, nor none of his house, nor none of his other Servants, nor no great ones of the Land by sending of their Letters, nor in other manner, nor no other of the Realm, shall not undertake to maintain quarrels, nor parties in the Country in disturbance of the Common Law, 1 Ed. 3. chap. 14. See 20 Ed. 3. chap. 3.

That no Counsellor, Officer, or Servant, nor any other persons shall not uphold or maintain any quarrels by maintenance in the Country nor elsewhere, first of R. 2. chap. 4.

That henceforth none buy or sell, or take promise, grant or covenant, to have Mannors, Lands, Tenements, or hereditaments. But if such person which sells, their heirs, or they by whom they claim, have been in possession of the same, or of the Reversion or remainder of that, or hath taken Rents or profits of that, by the space of one whole year next before that bargain, or covenant, grant, or promise, made upon pain of him that bargains, to forfeit the value of the Lands, and the Buyer also knowing that, to forfeit also the value of the Land, the one half to the King, the other to him which will sue for the same, within one year after the same offence.

And it is also enacted, That none from henceforth unlawfully maintain, or cause, or procure any unlawfull maintenance in any action or complaint, in any of the Courts of the King, of the Chancery, Star-Chamber, White-Hall, or elsewhere within the Kings Dominions,

where they have power to hold Plea of Land by Commission, Patent, or Writ. And also that none shall instruct Jurors, or suborn Witnesses, by Letters, Promises, or by any other sinister labour or means, to maintain any matter or cause, or to hinder Justice, or to procure or occasion any manner of perjury, upon pain of forfeiture, for every such offence, 10 l. one half to the King, and the other to him that will sue for the same, within one year after the same offence, 32 H. 8. chap. 9.

If one will say, He will maintain, and doth it not, he shall not be punished for maintenance; And Champerty lies, where one purchases, hanging the Suit, 9 H. 7. f. 18.

See 3 H. 6. fol. 53. It seems, it is no maintenance to give money before a Suit begins, but hanging the Suit, Maintenance, the Writ was in Plea, which was in hanging, he maintains, and it is good, and it seems it is better to say, In plea which was hanging, 10 H. 7. f. 27.

It seems one may covenant to have part of an Obligation when it is recovered, for travelling with an alien which cannot speak English, nor Latine, to his Counsell; so one may covenant with one indebted to him, and deliver him the Obligation of another, in satisfaction of his debt, to sue in his Name; and notwithstanding that he paid Counsel, it is no Champerty. Every Champerty implies in it maintenance, but not of the contrary; and he to whose use, and every one that hath lawful Interest in the Land may maintain, 15 H. 7. f. 2. 34 H. 6. f. 33. The same.

By *Fineux*, If a Servant be arrested for debt or other thing in London, or other Franchise, the Master may maintain him and spend of his proper money for loss of his Service. Inquire. But otherwise it is in *Præcipe*, 21 H. 7. f. 40. B. See 21 H. 6. f. 19. by *Newton*.

By *Newton* and *Paston*, Servant may pray one skilled in the Law to be of Counsel with his Master, but a stranger cannot pray one to be of Counsel with my adversary, for he hath nothing to do, 21 H. 6. f. 19.

If a man be at the Bar, and another informs the Court, that this man can declare the Truth, and pray that he be sworn; and by the commandment of the Court, he swears, this is Maintenance Justifiable; but if he had said for one, or the other, of his own head, this is Maintenance punishable:

nishable: The same Law, if he inform a Jury sworn, of his own head, it is maintenance punishable, 28 H. 6. fol. 6.

The Master may pray one, skilled in the Law, to be Counsel with his Servant, and this is maintenance justifiable; but he cannot give of his own proper Goods to distribute to men of the Country, for maintaining his quarrell: for then he meddles with a thing forbidden by the Law: and by *Prisot* he may Justifie giving money to Lawyers to be of Counsel with his Servant, but not to give money to others not learned in the Law, 28 H. 6. fol. 12.

By *Fortescue*, Master may pray one learned in Law, to be of Counsell with his Servant, but not to give to them money, unless it be of his Wages; and he saith, One skilled in the Law, may be of Counsell without a Fee. Inquire 31 H. 6. fol. 2. 36 H. 6. fol. 29. 3 H. 6. fol. 57. Maintenance, one may justifie, for that he is his Servant, but he cannot give money.

Maintenance, Defendant Justifies, that he is a Bail, and that he came to the Defendant's Attorney, and prayed him to be carefull, the which is the same Maintenance; by *Prisot*, it is not good to say, It is the same maintenance, for this is no maintenance, for every stranger may pray the Attorney; for it is the part of an Attorney to attend to that, and for that it is no maintenance, 32 H. 6. fol. 29.

It is justifiable to speak to a Lawyer for him, that he cannot speak English; and by *Laken*, Master may pay money of his Servants Wages to the Counsell, by the consent of his Servants; but a Bail cannot pray a man learned in the Law, to be of Counsell, but may come and see if his appearance be recorded: and it seems, that the Father may give of his own money for his Son and Heir, for he is bound to find him; contrary of another Cozin, 34 H. 6. fol. 27. B.

If one be retained to ride to *London*, and when he comes there to maintain him, this is not justifiable; but it seems otherwise, if he were hired for the Journey, that is justifiable, and the same of a Servant, 39 H. 6. fol. 6. 19 H. 6. fol. 31.

Where one hath property in the thing demanded, he may maintain by *Moyle*, as Goods or Writings are delivered to

J. S. and Detinue is brought against him by a stranger; the Deliverer may maintain, and in *Præcipe quod reddat*, or Ass. against a Farmer the Lessor may maintain, 39 H. 6. fol. 21. See 9 H. 6. fol. 64. the same.

Where one hath Rent out of Land in Fee, and hath the Writings granted unto him by R, the Grantee may maintain R. in Detinue of Writings of the same Rent; and it seems, that a Master may maintain his Servant, and a man may maintain his Blood, and his Kindred, and give money to the poor, and that Maintenance is justifiable; and he in Reversion may maintain his Tenant for life, after attornment, and not before, and this is seen in giving his own proper money, 9 H. 6. fol. 64. See 14 H. 7. fol. 2. by *Reade*.

In attaint, it seems, that one may aid and maintain his Couzen in aiding and counselling him at the Bar, 12 H. 6. fol. 2. R.

Maintenance in Assise of *Fresh force*, Defendant Justifies for that he was of his alliance, and shews how Cozen; and it seemed good, by which the Plaintiff saith, That he promised ten shillings apiece to two of the Jury to pass for him, 20 H. 6. fol. 1. 21 H. 6. 19. By *Pastor*, a man may maintain his Kin and his Allies.

Maintenance, Defendant justifies that the party was his Chaplain retained with him, and he gave him notice who he should have of his Counsel, which is the same maintenance; and it seems, that is no maintenance: And for that the Defendant saith, That he was at the Barr to aid him, and that is good Justification to say, that is the same maintenance, 19 H. 6. fol. 30.

In maintenance, Defendant cannot plead, Not Guilty, but he ought to answer to the point of the Writ; that is to say, he did not maintain, ready to Justifie, and others to the contrary, 8 H. 6. fol. 36. But by 2 Ed. 4. fol. 16. In maintenance, Not Guilty, is pleaded and allowed.

By *Choke*, If my Brother or Cozen hath a Suit in the Law, and prayes me to aid him to learned Councell, and I pray a man to be of his Councell, this is a good Plea in maintenance; contrary, if a stranger do it: but if he gives his own Money for his Brother or Cozen, this is speciall maintenance, 9 Ed. 4 fol. 34. In action upon the Statute of Labourers.

Where

Where Tenant in tail, or for life is impleaded, he in Remainder or Reversion may maintain, and give of his proper money for safeguard of his Interest; for he which hath Interest in the Land, may maintain to save that, 1 Ed. 6. tit. 53. *Maintenance.

It is held a difference between action Real, where Land may come to him, and an action personal; for he to whom Lands may come as by Remainder, Reversion, Discent, and such like, may maintain in action real. And by *Brian*, a man may shew to another, who is a man learned in the Law for the Party to retain, but he may not give Money to the Counsellor; and our Neighbour may go with another to seek Counsel: and a man may maintain his Servant, and give of his Wages behind, and otherwise not to give Money, but he may lend to him or another Money, and that is no maintenance; but he in Reversion or Remainder may give money where the Land is in question. And the Servant may maintain his Master, as to go and labour for him; but he cannot give of his proper Money for him: And so it seems, that he who hath marryed the Daughter of one party, may maintain him in an action Real, but not in an action Personal, 59 E. 3. fol. 3. Br.

Upon the Statute of 32 H. 8. chap. 9. That a man shall not buy Land, unless the Seller hath been in possession by a year before; It was agreed in *Sergeants Inn*, That if a man Mortgage his Land, and redeem it, and he sells it within a year after the Redemption, that he may do it without danger of the Statute; for the Statute is to be intended of pretended Title, and not of a clear Title: and the ancient Statutes are, That none shall maintain, yet one may maintain his Cozen, as above; for they are to be intended of unlawful maintenance, that is, that unlawfully one cannot maintain, 6 Ed. 6. tit. 38. maintenance.

One skilled in the Law, may give the evidence for his Fee to the Jury, and it is no imbracery: but it is imbracery in another, unlesse he be sworn, 6 Ed. 4. fol. 5.

If *Præcipe* be brought against me, and, hanging that, I infeof J. S. and the Demandant recovers by default after default, and I bring Writ of Deceit, it seems J. S. cannot maintain, for that, that the possession which he hath in Champerty, is against the Law, 8 Ed. 4. fol. 13.

Main:

Maintenance, the Defendant justifies that he is his Neighbour, and knew no man skil'd in the Law; and he informed him of one, and a good Justification, by which the Plaintiff shewed special maintenance, that is giving Money to the Jurors, 12 Edw. 4. fol. 14. See 29 Edw. 4. fol. 3.

Maintenance, the Defendant may plead, that he was a Juror, and that is good, without saying, that he gave Verdict; but if after Verdict given, the Juror prays Judgment, this is maintenance, 18 Ed. 4. fol. 2.

If a Juror give Money to his Companion to pass, this is maintenance, notwithstanding that it be for truth: But to perswade him to pass, is no maintenance, 17 Edw. 4. fol. 5.

One may be Bail, and that is no maintenance, so that he do not meddle more in the matter, 18 Ed. 4. fol. 13.

Trespass of digging Land, the Defendant justifies, for that, that the place where is their Church-yard, and that the Inhabitants have used there to be buried, and for making Grave, there justifies, and held, that the Inhabitants may maintain in this Action, though they were not parties, 18 E. 4. fol. 2. see before, 15 H. 7. fol. 2. That every one that hath lawful interest may maintain.

Maintenance, supposing that the Defendant maintained A. in Assise: The Defendant saith, That A. held of him, by which he came with him to the Assise, and staid with him, prayed the Sheriff to make an indifferent pannel, which is the same maintenance, and it is a good Plea, 11 H. 6 fol. 39.

General Attorney which sues, and is not skilled in the Law, may well meddle; but he cannot proffer money to a Jury, but may pray them to appear, 34 H. 6. fol. 37. By Choke.

Maintenance, he cannot justify for that, that he was an Attorney retained with him, and that, by Commandment of his Master, he retained Counsel, and gave to them forty pence of his Masters money, and good.

Inquire, if an Attorney cannot retain Counsell without the Commandment of his Clyent, and if he may not disburse of his proper money for the time: But Attorney cannot give of his proper money, nor of his Masters money to Jurors, 36 H. 6. fol. 29. 11 H. 6. fol. 13. the same.

Main-

Maintenance, the Defendant saith, That he was an Attorney in the Action, Judgment if a Action, and good ; but he cannot give any thing to the Jury but as an Attorney; and give evidence to the Jury for his Client, he may, 13 H. 4. fol. 19.

If a man maintain a quarrel by his Attorney, a Action of Maintenance lies against the Master, 22 H. 6. fol. 24. and, by *Newton*, if a man, of great power in the Country, will say in the presence of the People, That he will spend twenty pounds for one party, or will give twenty pound to labour for the party, though he give nothing, 'tis Maintenance: See before, 9 H. 7. fol. 18.

Maintenance against a Servant of one by *Fortescue*, if he menace Jurors to out them of their Tenures, if they do not passe with his Master ; this is special maintenance in the Servant, 19 H. 6. fol. 30.

A man skilled in Law, may do his endeavour for his Client ; and it is no maintenance, if the Plaintiff cannot alledge other special matter forbidden by the Law, 8 H. 4. fol. 6. B.

Embraceor is he which comes to the Bar with the party, and speaks in the matter, or is there to overlook the Jury, or to put them in fear : but men skilled in Law may speak in the Cause, for their money, but they cannot labour the Jury ; and if they take money to do that, they are Embraceors. *Fitzh.* fol. 71. A.

Tenure and Services.

It is expedient to know the Services and Tenures which your Tenant shall do : And first, of the Tenure in chief, and other Tenures of the King, and then of other Lords.

First, Tenure in chief is called, where one holds of the King meerly as of his Crown, which is a Signiory in grosse, for that it is held of him which is always King, and not of the King, as of his Mannor of D. &c.

Fitzh. 3. D. If any Land be held of the King, or of the Honour, Castle, or Mannor, such Lands are not held of the King in chief ; and this is proved by the Writ of Right, which shall be directed in such a Case to the Bayliffs of the Honour, Castle, or Mannor. Also

Also the Statute of *Magna Charta*, chap. 31. is, If any hold of any escheat, as of his Honour of *Wallingford*, *Nottingham*, *Bulloigne*, *Lancaster*, and of other escheats which are in Our hand, and are of Baronies, and dies, his Heir shall not give other relief, nor make to us other Service then the Barons should make; if that Barony were in the hands of the Baron, and we in the same Mannor will hold it as the Baron held it.

1 *Ed. 6. chap. 4.* Also is, That where a King hath, or after, shall have, any Dukedomes, Baronies, Castles, Mannors, Lands, Tenements, Fees, or Signiories, by Attainder, Conviction, Out-lawry, or by Dissolution of Monasteries; which Lands held of them by Knights-Service, Socage, or otherwise, shall not be construed to hold in chief, nor as Tenure in chief. See in *Br. Tit. Tenures* 100.

Littleton, fol. 31. Tenure of the King in Burgage is where an ancient Town is, of which the King is Lord; and those which have Tenements within the Borough, hold of the King their Tenements, that every Tenant by his tenure ought to pay to the King a certain Rent by the year, and such tenure is Tenure but in Socage.

Fitzh. 6. D. Lands and Tenements within Cities and Towns are held of the King in Burgage-tenure; and it behoveth, that a Writ of Right Patent of them shall be directed to Mayors, Sheriffs, and Bayliffs, as Bayliffs and Officers of the King; as if Lands were held of the King, as of any Honour, Castle, or Mannor; by which it appears tenure in Burgage is Socage tenure, and not Socage in chief. *Fitzh. fol. 1. I.* the same.

Stamford 13. If one hold of the King in Burgage, the King shall not have (first seisin); but otherwise it is, where he holds of the King by Knights-Service in chief, or by Socage in chief; for the Statute of the Kings Prerogative, Chap. 3. is, The King shall have the first seisin after the Death of them, which of him held in chief, of all Lands and Tenements, of which they were seised in their Demesne, as of Fee, whatsoever age their Heirs were of, and that is taken as well of Socage in chief, as otherwise in chief.

7 *H. 6. fol. 3.* The King shall have first seisin, where his Tenant dies seised in his Demesne, as of Reversion.

47 *Ed. 3. fol. 21.* If the King purchase Lands, which is held of others; by this all the Services are extinguished:

and

and if he infeoff others to hold of him, he shall hold of his Crown in chief, by *Finchden*: and also when an Honour is seised into the Kings hands, and a Mannor is held of that Honour, which Escheats unto him, as of common Escheat; if he alien to hold of him, he shall hold as he held before of the Honour, and by the same Services; but if he come in as by Forfeiture, by War, or Escheat, which is, because of his own person, and he seise, and infeoff others, they shall hold in chief, if the King do not express other Tenure.

33 H.6. fol. 7. By *Prisot*, if the King seise Land by Forfeiture of Treason, and grant that over, to hold of the chief Lord, by the Service due, &c. that in this case he shall hold of the chief Lord, as it hath been adjudged.

44 Ed.3. fol. 45. The King gives Lands to one, to hold to him and his Heirs, by the Services due, &c. and by all the Justices, that is Tenure by Knights Service.

16 H.4. fol. 71. It was recorded in the Exchequer, That such a one holdeth so much Land of our Lord the King by Serjeanty, to find one man for the War, wheresoever within the four Seas: and by *Hunk*, it is great Serjeanty, to be made by the Body of a man.

13 H.7. fol. 16. If one hold of the Duchy of *Cornwall*, it is in chief; for it was ancient Lands of the Crown.

Fitzh. 185. A. To hold Land to pay certain Rent to the Keeper of the Castle of *Dover*, is a Tenure in chief. See *Littleton* 23. See 5 Ed.4. fol. 127.

19 R.2. Tit. 183. *Guard F.* Keeper of a Castle in *England* is Knights-Service; for it countervailes Escuage, and is of the same nature.

8 H.7. fol. 12. If I hold of the King, and he grants the same Service to me; yet I shall hold of the King, for all is held of the King mediately or immediately.

Magna Charta, chap. 20. See there for keeping of a Castle.

38 H.8. Tit. 60. B. Livery, where the Heir was in Ward to the King, and come to full age, there he shall sue Livery out of the Kings hands: and the first Seisin is, where the Heir is of full age at time of the Death of his Ancestor, and where his Tenant holds in Socage in chief, and dies.

10 H.7. fol. 23. If one hold of the King to inclose a Park, he may by his Grant after reserve for that six Marks; and the

the King is not bound by the Statute of *Westminster* the third.

It is held, 21 *Ed. 3. fol. 41.* The King gives the Honour of *Parkburned* to the Prince, and his heirs Kings of *England*; and so it seems, that Lands held of that Honour, seems to be held in chief; yet *Magna Charta* is, that Honour is not properly in chief.

26 *H. 8. fol. 10.* By *Fitzh.* Lands in the County Palatine of *Lancaster* held of the Duchy; the King there hath king-ly Rights, and there Livery shall be sued.

17 *H. 8. fol. 31.* Tenant of the King in chief makes a Gift in Tail without License; the King may choose the Donee or Donor for his Tenant. And if Tenant of the King, before the Statute of *Westm. 3.* makes a Feoffment, the King may choose the Feoffee or Feoffor for his Tenant, 4 *H. 6. fol. 19.*

33 *H. 8. Tit. 94. B.* In the Exchequer, 3 *Ed. 3. Rot. 2.* It was found, that a man held of the King in chief, as of his honour of *Raleigh*; and it was taken no Tenure in chief, but a Tenure of an Honour: otherwise it is, if the honour be annexed to the Crown, for then the honour is in chief. And in the year 11 *H. 7.* The honour of *Raleigh* was annexed to the Crown, and so it is in chief. But where the King gives Lands to be held of him by Fealty, and two pence for all Services, that is Socage in chief, for it is of the Kings person; and contrary, if it were to be held of the Mannor of *B.*

24 *Ed. 3. Tit.* He which holds of the King by Service to find a Man to serve in the War, by forty dayes at his own Charge, this is great Serjeanty, *Tit. 69 Br.* That a Tenure to find one Horse, and such like, is but small Serjeanty; for it is not corporal Service.

44 *Ed. 3. fol. 45.* The King gives the Fee-Farm of a Town, that is, such a Rent, to be held for term of life, and after confirms to him, and to his Heirs, to be held by the Services due, and this is held Knights-Service of the King; for the most high, and better, shall be taken for the King: and by *Fitzh. 263. B.* It appears, That Rent may be held of the King by Knights-Service in chief, as well as Land, &c.

10 *H. 6. fol. 12.* Rent lies in Tenure of the King.

14 *H. 6. fol. 12.* If the King grant Land to me in Fee, to

be held as freely as the King is in his Crown; yet I shall hold of the King, and if I alien without license, I shall make Fine; for this is vested in the King by his Prerogative, and shall not passe out of his person by general words; by *Paston* in the end of the case.

45 Ed. 3. fol. 6. By *Finchden*, If my Tenant infeoffe the King, and takes back of the King, to hold of the King; yet he is my Tenant in right, and shall hold of the King also. But inquire of the Tenure of me; for the Tenure was once extinct by the Kings Possession.

29 H. 8. tit. 61. B. If the King purchase a Mannour which J. S. holds, the Tenant shall hold as he held before; and he shall not render Livery, nor first Seisin, and he shall not hold in chief; and it is said, If the King grant the Mannour to W. N. in Fee, except the Services of J. S.: Now J. S. holds of the King, as of the Person of the King, and yet he doth not hold in chief, but as he held before; for the act of the King shall not prejudice the Tenant.

31 H. 8. tit. 70. B. Lord and Tenant, the Tenant is attaint of Treason by Act of Parliament, and so forfeits all his Lands, and after is pardoned, and restored by another Act of Parliament, to have to him and his heirs, as if no such attainder or former Act had been; now he shall hold of a common person as before, and yet once the Tenure was extinct.

3 A. 6. tit. 94. B. Where the King gives Lands to be held of him by Fealty, and twelve pence for all Services; this is Socage in chief, for it is of the Kings person.

23 H. 3. tit. 148. *Guard. F.* If a man holds of the King to go with him in the Army against *Scotland*, in the Vanguard, and in his return in the Rereward; and so if he hold to give to the King Hornegild, which is said Cornage; it is great Serjeanty.

38 H. 8. tit. *Livery* 60. The Heir of him which holds of the King in chief in Socage, shall not pay first seisin to the King for all his Lands, but only for those Lands held in Socage in chief; contrary of him which holds in Knights-Service in chief, and where he holds in Socage in chief, the other Lord shall have (*Ouster le main*) with Issues.

2 Ed. 4. fol. 6. Land is given in Tail, to be held of the chief Lords; these words, *To be held*, &c. are void, and he shall hold of the Giver.

Where

Where there is Lord and Tenant, if the Tenant be disseised, and the Disseisor dieth seised, and his Heir is in by Discent, the Lord ought to advow upon him : but if there be Lord and Tenant, and the Tenant enfeoffs another, which doth not give notice to the Lord ; now the Lord during the life of the Feoffor, may take him for his Tenant, or the Feoffee, at his pleasure, 4 H. 6. fol. 19.

3 Book of Assise, 8. Land is given in tail, without saying of whom to hold, the Donee shall hold of the Giver ; and if a man, before the Statute of *Quia emptores*, give in Fee, without saying of whom to hold, the Feoffee shall hold of the Feoffor. *Littleton*, fol. 5.

16 Ed. 3. *Statham*, fol. 23. If Lands be given in tail, to be held of the Lord, this (to be held) is void, and the Lord ought to avow upon the Feoffor.

5 H. 7. fol. 35. Mesnalty lies in Tenure by a Mesne ; contrary of an Advowson appendant, 1 H. 4. fol. 1. the same.

33 H. 6. fol. 34. Was the Opinion, That Advowson may lie in Tenure ; as where a Mannor and Advowson are held, the Advowson is made in grosse, and the Advowson is held for it self.

21 E. 3. fol. 3. It seems, that Advowson lieth in Tenure, 24 Ed. 3. *Tit.* 18. 14 H. 7. fol. 26. and 15 H. 7. fol. 8. the same.

32 Ed. 3. *Tit.* 75. *Br.* A fishing doth not lie in Tenure, for the soil may be to one, and the fishing to another.

11 H. 4. fol. 80. It seems by *Hill*. That Rent cannot be held of a common person, 10 H. 6. fol. 12. Rent lieth in Tenure of the King, 10 Book of Assise 24. 1 H. 6. fol. 21. *Fitzh.* 263. B. 13 H. 6. fol. 12.

40 Ed. 3. fol. 44. Fishing lies in Tenure, and yet it is a profit in another Soil, 8 Book of Assise 7. Office may be held in chief.

42 Ed. 3. fol. 7. Advowson may hold, 43 Ed. 3. fol. 15. the same.

14 H. 4. fol. 3. Where a Deed is to hold by Homage, Fealty, Escuage, and Rent ; and for all Services, the Lord shall have suit of Court.

20 A. 7. fol. 10. He might before the Statute infeoff one to hold of him ; and after the Statute, if he infeoff him of part, he shall hold for that part, 10 H. 7. fol. 10. the same.

5 H.7.f.11. By *Fairfax*, Termor for years shall make Fealty to his Lessor, *Littleton*, 25. 9 H.6.f.43. the same.

10 *Book of Assise* 29. Lord, Mesne, and Tenant, the Tenant holds of the Mesne by three pence, and the Mesne over of the Lord by four pence; the Mesne dies without Heir, the Lord shall have the three pence; for the Signiory is extinct in the Mesnalty, so that he shall only have the Services which the Mesne should have had, and also the Services which the Mesne paid to the Lord; but it is said otherwise upon forejudging, for there the ancient Signiory remains, for this wills the Statute.

Littleton, 41. Lord, Mesne, and Tenant, and the Tenant holds of the Service, by the Service of five shillings, and the Mesne holds over by the Service of twelve pence; the Lord Paramount Purchases the Tenancy in Fee, then the Services of the Mesnalty are extinct; but for that, that when the Lord Paramount hath the Tenancy, he holds of his Lord next Paramount, and for that the signiory of the Mesnalty is extinct, but for that, that the Tenant holds by 5 shillings of the Mesne, and the Mesne holds but by twelve pence, the Lord shall have the four shillings of the Mesne as Rent-Seck, 2 E. 2 f. tit. Exting. 6. F.

26 *Book of Assises*, 66. A man may hold by homage, and yet not Knights Service, but in Socage.

Littleton, 22. Where a man holds by homage and fealty for all manner of Services, it is Socage, for homage by it self doth not make Knights Service.

28 *Book of Assises* 66. The King, Lord, Mesne, and Tenant, the Tenant holds of the Mesne by Socage, and the Mesne over by Knights Service, the Tenant gives in frank-marriage, rendring 12 d. by year, for all services, saving Service abroad, and it seems that by this word, (saving the Service abroad) the giver shall have only such Services, by which he himself is charged over.

31 *Book of Assises* 30. When a man gives Lands in Fee before the Statute he held by two pence, saving the Service abroad, yet he shall hold by Knight Service, by *Thorpe*. See 31 *Book of Assises* 15.

Fitzh. 8. 4. If the Husband infeoffe J. S. and dye, and after the Wife is indowed, she shall hold this Dower of the Feoffee by Fealty, 33 Ed. 3. *Statham*. f. 75. Where the Woman is indowed by the Guardian, she shall be Attendant

to the Guardian, and at full age to the Heir.

3 E.3.1.84.B. A Woman Tenant in Dower shall hold of the Heir for parcel, and he shall make a wovry for that portion.

34 Book of Ass. 15. Where the Tenant in tail dyes without Issue, and his Wife is indowed, and the Donor enters, she shall hold by the third part of the Services, for this is the act of God, and the Law: The same Law is where there is Lord and Tenant, and the Tenant dyes without Heir, and the Lord enters for the Escheat, and the Wife of the Tenant recovers Dower, and hath Execution, she shall hold by the third part of the Services; contrary, where the Lord purchaseth the Tenancy in Fee, and she is indowed, she shall render nothing to the Lord, for this is his own act.

24 H.8. tit. 53. If a man before the Statute of *Quia emptores terrarum*, had made a gift of Land to one in Fee for repairing a Bridge, or for keeping such a Castle, or for marrying a poor Virgin of S. this is a Tenure, and the Donor may distrain, and make Avowry and not condition: but if a Woman give Lands to a man to marry her, this is a condition in effect and Tenure.

6 H.3. fol. 72. Lands in Gavelkind are held in Socage, and not in Knight Service, Fitzh. 13. D. Lands which are held in ancient Demesne are Socage.

13 Re. tit. 76. A man gives Land to hold by ten shillings for all Services, Exactions, Customes, and Demands. And yet the Tenant was constrained to pay relief, for that is incident, as well to Socage as to Knight Service.

29 H.8. tit. 64. A man makes a Feoffment of the half of his Land, the Feoffee shall hold of his Lord by the whole Services, that the whole Land was held before; for the Statute to hold for that particular, doth not hold place here; for moyety is not a particular, as of one Acre or two Acres in certain, but count of the third part, which goes throughout and every where.

And if a man holds two Acres, the Feoffee shall hold that by a Hawk, and the Feoffor shall hold the other Acre by another Hawk, *Westm. 3. fol. 85*. It is lawful for any man to sell, so that the Feoffee hold of the chief Lord for that part according to the quantity of the Land; that is, the value of the Land so sold, &c.

Littleton 41. If one holds his Land of the Lord by the Service, to render to his Lord yearly at such a Feast, a Horse, or a Ring of Gold, or a Clove, if in such Case the Lord purchase parcel of the Land, such Service is gone; for such Service cannot be severed nor apportioned; but if the Tenant hold by homage, Fealty and Rent, and the Lord purchase parcel of the Land, the Rent shall be apportioned, but the Homage and Fealty shall continue intire to the Lord. 8 H.7.f.14. It is impossible that any Land should be, and not held of the King, either mediately or immediately, and for that the King cannot release to his Tenant all his Services.

10 H.7.fol.10. If the Tenant which holds two Acres by twenty pence, makes a Feoffment of parcel, the Lord may distrain in this parcel so aliened, and also in this part which remains in the possession of the Tenant.

11 H.7.fol.12. Feoffment before the Statute, or a gift in tail to make a thing to himself, or to another for common wealth, is good, as to make a Beacon, or a Bridge; but to ride with a stranger is not good.

Fitzh. 1. L. To hold of us by free service, to find for us, together with his Partners, five Ships for our passage, at our command for all Services, it seems to be Socage Tenure.

Fitzh. b. 83. chap. E. A Writ *de Scutagio habendo* lyeth when one holds by Knights Service, and the King goes in a Voyage into the War in his proper person, or his Lieutenant against the Scots, and none shall pay Escuage, but those which hold to go into the War, and not he that holds by Cornage, nor by keeping a Castle, *Littleton* 18. and *Littleton* the 19. One may distrain for Escuage, or have a Writ *De scutagio habendo*.

Fitzh. 135. a. If one hold twenty Acres by twenty shillings of the King, and aliens a parcel, yet the King or his Officer may distrain one of the Tenants for all, and is not bound by the Statute to distrain for that parcel; but otherwise it is of a common person; for if he distrain one for all, he shall have a Writ to be discharged for a ratable proportion: But in case the King or his Tenant aliens part, the alienee makes Fine to the King for this alienation: It seems reasonable, if he be distrained for all the Rent, he shall have a Writ to be disburdened, for a ratable

able proportion, against the King's Officer which distrains, *westm. 3.* That the Feoffee of part shall hold for that particular part, according to the quantity of the Land so sold, &c.

Where by 37 H. 8. *chap. 27.* It was Enacted, That the King shall have to him and his Heirs, all Monasteries of Monks, Canons, and Nunns, which had not Lands, Tenements, Rents, &c. above the value of two hundred pound: And also all Monasteries which have been granted to the King within a year next before this Statute, by the Abbots or Priors under their Seal, or which have been otherwise suppressed or dissolved; yet in this Act is a Saving to the Lords Rents, profits, services, and commodities, as they before have had them: So that of these Monasteries, the Rents and Services of the Lords are not gone by this Act, where such Abbies hold Land of any Lord, but are saved to them.

But by 31 H. 8. *chap. 13.* The King is vested, deemed, and adjudged, in actual and real Seisin, and possession, as well of the Monasteries dissolved by 27 H. 8. as of all others, and in this Statute is a saving to every person, all their Rights, Title, Claim, Interest, Possession, Rents, Charge, Annuities, Leases, Offices, Commons, Synods, &c. and other Profits in the Premises, or any part of that, as if this Act had not been made, (Rents services, Rents seck, and all other service, and suits only except) so by this statute, the Rents and Services of the Lords are gone.

1 *Ed. 6. chap. 14.* which gives Chantries, &c. to the King, in this is a Proviso that every one, which before that Act, lawfully without Covin or fraud, hath any manner of Rent, or any yearly profit to be taken of Chantries, Colledges, free Chappels, and other the Premises, in like manner and form as they ought to have, if the Chantries, &c. had been in being, so that the Lords of those shall not lose their Rents.

2 and 3 *Ed. 6. Chap. 8.* It is enacted, that where by Office found, the King is intituled to Lands or Tenements, in which others have Copyhold, Rent, common Office, Fee, or other Profit to take, for life, or for years, not found in the same, that they shall enjoy the same Interest, by Copy, Rent, common Office, Fee, or other Profits to be taken, as if the same had bin found by Office, and provides that

if one be found within age, or of less age then he is, that at his full age, or after, he may have (*Estate probanda*) or sue Livery, or (*Oufter le main*) as his Case lyes, and provides that where it is falsly found by Office, that any Attaint of Treason or Felony, is seised of any Lands, or Tenements, whereof another hath just title, or Interest of an Estate of Freehold, that he shall have Traverse, or Monstrans of Right to the same, without being put to his Petition.

And provides where it is found, of what man, or of whom the Tenements are held, the Jury is altogether ignorant, it shall not be taken for a Tenure in chief, but there shall be a better Inquiry awarded.

37 H. 8. Chap. 20. It is enacted, that where by 35 H. 8. Chap. 14. Houses, not being Princely houses of the King, having Lands not above forty shillings, that is, were granted by the King, and Tenure by Fealty to the King, and not in Chief, is Socage, and that extends to all Letters Patents made within five years after the Statute.

Littleton fol. 23. If a man hold his Land, by paying certain Rent to his Lord for keeping a Castle, such Tenure is Tenure in Socage; but where the Tenant ought by himself, or by other make the keeping of a Castle, such Tenure is Tenure by Knight Service; so by *Littleton*, Escuage to go of a Voyage Royall, &c. and to keep a Castle, or the door thereof, &c. and to hold by Cornage, that is, to hold, to make Service by the body of a man, these are Knight Service; and to hold to pay Rent is Socage, for payment by him is Socage.

View.

Where one shall have View of Land in a Writ, or Plaint in nature of a Writ of Land; and where not.

THe View is not to be granted, but where it is necessary; and if any Writ abate, by a dilatory exception after the View, as by non-tenure, ill naming the Town, or such like, he shall not have the View in the second Writ which issueth; also in a Writ of Dower, where her Husband hath aliened to the Tenant, or his Ancestors, although the Husband died not seised, the Tenant shall not have the View, and also in a (*dum sit infra etatem*) (not of a right mind) and such like, the View shall not be granted. *W. & M. 2. Chap. 48.*

1 H. 5. fol. 11. Upon the Resummons of Dower, the Tenant demanded the View; the Demandant saith, Her Husband died seised, by which Judgment, and prayed that he be outed, and he was outed by a Ward, 5 H. 5. fol. 4. 9 H. 4. fol. 9.

9 Ed. 4. fol. 6. Dower, the Tenant demands the View, and hold where the Husband aliens; the View is outed by the Statute.

2 H. 4. fol. 2. Dower, The Tenant hath the View, notwithstanding that he disseised the Husband. See 7 Ed. 4. fol. 19.

11 H. 4. f. 38. Dower, The Husband did not die seised, and this was the Counterplea to Out him out of the View, 5 H. 5. fol. 4. 9 H. 4. fol. 9.

44 Ed. 3. fol. 31. Dower of Rent, for that, that the Husband was seised of a Land, he was outed of the View by Statute.

21 Ed. 4. fol. 26. Dower, Where the Husband dies seised; and Assise where Jurors have the View, and where the Tenant takes knowledge of the Land in Demand, as in action against two; One saith, That he is Tenant of all; in these Cases he shall have no View.

33 H.6. fol. 57. Dower of Lands in divers Towns, and to parcel the Tenant pleads Bar, and demands the View in the Town, and shall not have it; for that, that he hath notice of parcel.

9 H.6. fol. 65. Waste, If six of the Jurors have not the View, the Inquest shall not be taken, 9 Ed. 4. fol. 1. In Waste and Assise, the Jury shall have the View, 21 Ed. 4. fol. 26.

3 H. 4. fol. 16. In Atraint upon Verdict of Assise, the Jurors shall not have View; for in this Writ it is not, (let them see the Land) and yet in Assise and Certificate in Assise, the Jurors shall have the View, 7 Ed. 4. fol. 1.

22 H.6. fol. 27. Entry into two Acres, and the Tenant pleads in Barr to one, and demands the view of the other, and shall not have it; for he hath taken notice of parcel, and intended of all, 2 H.4. fol. 26.

7 H.4. fol. 9. Defendant shall not have View in an Atraint upon the Case, for that, that it is personal, 7 H. 4. fol. 32. the same. 6 Ed. 3. fol. 27. 29 Ed. 3. fol. 43. the same.

33 H. 6. fol. 34. The Statute is, for ill naming the Town, by non-Tenure, and such like; if the Writ abate after the View, he shall not have the View in the second Writ; and yet said, That if the first Writ abate for false Latine, that he shall not have View in the second Writ; but where the first Writ abates for Form, as where the Name of the Wife was put in the Writ before the Name of the Husband; he shall have View in the second Writ, for that vests the fault in the Party.

10 H. 4. fol. 6. *Præcipe*, The Tenant hath View in the second Writ, where the first was discontinued after the View.

10 H. 4. fol. 4. *Præcipe* against Two, where one dies after the View, and the Writ abates; yet in the second Writ against him which is aliye, he shall have View.

12 H. 4. fol. 11. Where the first Writ abates for false Latine, and by *Torin*, hath the View in the second Writ: Seek.

13 H. 4. fol. 8. He hath the View in the second Writ, where the first was abated by exception of the Tenant.

13 H. 4. fol. 14. The Tenant hath the View in the second Writ of five Acres, where he had the View in the first Writ of six Acres, abate, 42 Ed. 3. fol. 23. *Præcipe*, where after the View, the first Writ abates by death, and in the new by miscount, he shall not have View; 43 Ed. 3. fol. 35.

42 Ed. 3. fol. 33. *Præcipe* abates by false Latine, and in a new by miscounts; he shall not have the View, 7 H. 6. fol. 36. the same, 46 Ed. 3. fol. 16. In a Writ of Besayle, he shall not have the View where he had View before in a Writ of Cozenage, which was misconceived before of the same Land, and for that abates.

46 Ed. 3. fol. 34. In a *dum fuit infra Statum*, the Tenant shall not have the View where a dismissal was made to the Tenant by his Ancestor.

48 Ed. 3. fol. 31. In a *dum fuit infra Statum*; the Tenant shall not have the View, for he is out by the Statute.

29 Ed. 3. fol. 39. In a *dum fuit i fra Statum*, in the *per* and *cui*, the Tenant shall have the View; other wise, where it is in the *per* only; for he is there outed by the Statute.

22 Ed. 3. fol. 9. *Præcipe*, The Tenant hath the View, and after the Demandant was non-suited, and after brought another Writ; and the Tenant demands another time the View, and had it.

24 Ed. 3. fol. 48. *Præcipe*, The Tenant abated that by waging of Law, of not summoned; and yet in another brought freshly, he shall have the View, but he had not that in the first.

38 Ed. 3. fol. 1. *Præcipe*, Against Husband and Wife, they have the View; and the Husband dies, and in a new Writ freshly brought; the Wife demanded the View, and was outed, for it is not necessary, 29 Ed. 3. fol. 23.

38 Ed. 3. fol. 41. Where the first Writ abates by no such Town where he had the View; and yet in the second Writ he shall have the View.

20 H. 7. fol. 8. (*Cui in vita*) the first Writ abates after the View, for that he did not shew, Of whose demise he claimed in the second Writ; he was outed by *Fineux*, and *Davers*, and by *Varisor*, said, He shall have the View in the second, if the first were not abated, for any cause which comes upon the View, unless it were by death abated.

41 E.3. f.8. *Quod ei disforceat*, the Defendant shall not have view, for he is outed by the Statute, 41 Ed. 3. f.30. the same, 44 E.3. f.42. the same.

41 E.3. f.8. *Quod ei disforceat*, The Defendant shall not have the view, for he is outed by the Statute, 41 Ed. 3. f.30. the same, 44 Ed.3. f.42. the same.

41 Ed.3. f. 22. *Affise of nuisance*, the Defendant shall have the view.

46 E.3. f.27. *Curia Claudenda*, The Tenant shall have the View.

48 E.3. f.4. *Cessavit*, The Tenant shall have the View, where it is of his own ceasing, where he is Tenant of the Land, and not Tenant to the Lord, for he is as a Stranger.

2 H.4. f.6. *Cessavit*, of the Seisin of his Father, and of his own ceasing he shall not have view, for that it is of his own wrong, 7 H.4 f.16. the same, 2 H.4. f.14.

37 H.6. f.28. *Cessavit*, where it is of his own ceasing, he shall not have the view, 4 H.6. f.29. the same.

7 H.6.6. f. 47. *Entry upon Disseisin of Rent*, the Tenant hath view of the Land out of which the Rent is issuing, 8 H.6. f.66. the same.

35 H.6. f. 70. *Entry in the quibus* of a Mannor, said, That the Tenant shall not have the View, for he is in by wrong, 28 H.6. f.1. the same.

3 H.4.16. *Affise*, Jurors have the View, but the Tenant shall not have the View.

6 E.4. f. 1. *Quod permittat*, the Tenant shall have the view, though it be in *Debet & Solet*, which is of possession, and not of Right, 30 E.3. f.4.

2 H.4. f.14. *Quod permittat*, Of turning water, view was demanded in this Writ, and he had it.

8 H.6. f.75. *Admeasurement of Pasture*, he shall have the view of the Land out of which, &c. But not in personal action, nor in waste, where Jurors have the view, 9 H.6. f.41. the same.

3 H.4. f.20. *Dower of Rent*, the Tenant hath the view of the Land out of which it is issuing; and said, That he shall have it though the husband died seised of the Rent. But see, 44 E.3. f. 31. If the husband die seised of the Land, she shall not have the view.

22 H. 6. f. 12. Assise of profits of an Office, the place where he holds his Office shall be put in view.

13 H. 7. f. 10. *Cui in vita*, the Tenant shall have view; and yet the Statute is, If a Dismission be made to the Tenant, and not to his Ancestor, the view is not to be granted, but she claims from her husband, and not by the Demandant or his Ancestor.

Pleas after the View in Abatement.

Formedon, One cannot plead in *Abatement* after the View; unless it be a thing which cometh upon the View, but where it appears to the Court that it wants form, or is false *Latine*, the Court, *Ex Officio*, will abate, 41 E. 3. f. 29. 40 E. 3. f. 35.

44 E. 3. f. 14. *Formedon* of a house, and in the perclose of the Writ, there is a House and Meadow; and after view, the Tenant cannot shew that in abatement, for that it is but a Surplusage.

49 E. 3. f. 20. *Formedon*, after view, the Tenant cannot plead abatement, that any of the degrees were omitted, for it is not apparent to the Court.

50 Ed. 3. f. 9. *Formedon*, the Tenant may plead ancient demesne after the view; for it may be that parcel in the Town is Ancient Demesne, and parcel Frank-Fee, and that cometh upon the view to know that.

11 H. 4. f. 70. *Formedon*, where is matter apparent in a Writ to abate that, he may plead that after the view.

7 H. 6. f. 39. After the view one cannot plead no such Town, but he may say, That the Tenements are in another County, for that cometh upon the View, but after the view he cannot plead to the Jurisdiction, yet he may plead, that they are in C. and that they are impleadable there, and demand Judgment of the Writ, and not Judgment if the Court will acknowledg.

19 H. 6. f. 10. Dower, of a Freehold in D. and S. after View one cannot plead no such Town of D. for he is estopped of that, for that he hath know ledg of the Town before
the

the View, but he may plead Joynt-Tenancy and non-Tenure, which comes upon the View.

5 H.7. f.8. If the view be denied where it is grantable, it is error; otherwise it is, if it be granted, where it is not grantable, 8 H.7. f.11. the same.

36 H.6. f.17. Right of Advowson, the Defendant demands the View, for that there are two Churches in the same Town; and to out him of the view, the Plaintiff saith, That there is but one Church there, *Ready, &c.*

3 H.6. f.57. Dower by husband and wife, the Tenant pleads, that the wife is an Alien, born in *Portugal*, out of the allegiance of the King, Judgment if he shall be answered; The Plaintiff saith, That by Parliament she was made person able, and now the Tenant Demands the view, and had it; for though the Plea before was as a Bar, he pleaded that as to the person, and not to the action; and for that shall have the view; otherwise it is, if he had pleaded a Bar.

14 H.6. f.8. *Præcipe* against two, where one acknowledgeth the Action, the other shall not have view.

26 H.8. f.8. *Præcipe* against two, the one impails, and the other hath the view; *per Fitzh.*

The



The Third Part of this BOOK, chiefly for Pleading.

Abatement.

*Something of Pleadings for the Instruction of
the Steward, shall be said here following.*

T Respafs upon the Statute of *Richard*, the Defendant saith, That J. F. let to him, and the Plaintiff made Title, and that J. F. abated, and let to the Defendant; the Defendant maintains his Bar, and traverses the Abatement, and that is not good; for Issue shall not be upon the Abatement, 3 H. 7. f. 7. & 18 Ed. 4. fol. 1.

Entry upon Disseisin, Issue cannot be taken upon Abatement: The same Law is of Intrusion, 14 H. 6. f. 6.

Issue shall be upon the Affirmative and Negative, and not upon Plea by Argument, but upon traverse the Affirmative.

Conspiracy, he is alive, without that, that he is dead 7 H. 7. f. 6. 14 H. 6. f. 9. 19 H. 6. f. 4. & 35 H. 6. f. 60.

Trespafs, the Defendant justifies for Fealty not made; the Plaintiff saith, It was not unmade, and good, 9 H. 7. f. 12.

Debt against J. S. of D. the Defendant saith, That he is dwelling at S. and shall say, and not at D. in the Negative, 4 H. 6. fol. 4. 2 Ed. 4. f. 1. 4 Ed. 4. f. 44. & 10 Ed. 4. fol. 12.

Trespafs

Trespafs, the Defendant saith, That the Freehold was to J.S. which let to him at will. The Plaintiff saith, That the Freehold was to him, and not to J.S. in the Negative, 11 H. 4. f. 90.

Where the Defendant saith, That the Plaintiff is a Bastard; and the Plaintiff saith, He is Legitimate; he shall say, and not a Bastard, 19 H. 6. f. 17. & 11 H. 6. f. 53.

Trespafs against J.S. of *Fenton*, the Defendant saith, That he was dwelling at E, and shall say negatively, and not at *Fenton*, 19 H. 6. f. 1.

Action upon the Statute of Labourers, the Defendant saith, That he was in the service of J.S. and shall say, and not Vagrant, in the Negative, 11 H. 6. f. 1. & 52.

Action upon the Case, for that he hath a Leet; and Fines, and Amerciaments of the same; the Defendant saith, That well and true it is, that the Plaintiff hath a Leet; but he saith, That he hath not the Fines and Amerciaments, and ought to say without that, that the Plaintiff hath the Fines and Amerciaments, 38 H. 6. f. 16.

False Judgment, Issue was, That one saith, that he was dead; and the other saith, That he is alive, 14 H. 6. f. 9. 19 H. 6. f. 4. the same.

Where one pleads out of his Fee, the other saith within, without that, that it was out in manner and form, 11 H. 4. f. 10.

Formedon in Reverter, and counts of a Gift in tail, &c. the Defendant saith, That the Donor gave in Fee; and it is not good; for it is but an Answer by Argument, and for that he ought to traverse the Gift in Tail, which is supposed by the Plaintiff, 2 H. 6. f. 15.

Scire facias against the Parson of D. of Arrearages of Annuity; the Defendant saith, That before the Writ he resigned to the Bishop of L, and so that remained in his hands: Judgment of the Writ, and it is but a Plea by Argument; that is, that he is not Parson, and for that it is not good without concluding, and so not Parson, 7 Ed. 4. fol. 16.

Assise and Trespass.

Diversity between Pleading in Assise and Trespass, for in Trespass need not make Title under Possession; otherwise in Assise.

Trespass, the Defendant ought to convey to him an Estate immediate, and for that, to say, That J.S. was seised, till by J.D. disseised, which enfeofed the Plaintiff, upon whom J.S. entred, whose Estate he hath, it is not good; but if the Defendant saith, That he was seised till by the Plaintiff disseised, upon whom he entred, it is good, but not in Assise, 5 H.7. f.11.

Trespass, the Defendant saith, That he was seised till by the Plaintiff disseised; and he entred, and it is good; and he need not to convey to him a Title; and the Plaintiff saith, That he was seised, till by the Defendant disseised, without that, that he disseised the Defendant; for if the Defendant had first possession, it is good in Trespass, 26 H.8. f.6.

Trespass, the Defendant may plead Fine with Proclamation, Judgment if Action, but not rely upon Estoppel, 17 H.8. f.27.

Trespass, the Defendant pleads his Freehold; the Plaintiff saith, That he was seised in Fee, till disseised by the Defendant, and he re-entred, and the Trespass in the mean time; the Defendant maintains his Bar, without that, that he disseised the Plaintiff, 1 Ed.4. f.3.

Trespass, the Defendant pleads gift in tail to his Ancestor, and conveys to him by divers Discents, the Plaintiff saith, That he was seised in Fee, and traversed the Gift, and it is good, and need not make title beyond his Possession; otherwise of Assise, 3 Ed.4. f.19.

Trespass, to plead a Feoffment of the Plaintiff, it seems to be good; or he may say, that he himself was seised, but in Assise, Feoffment of the Plaintiff is no Plea, for that amounts to no wrong, no Disseisin, 15 Ed.4. f.31. and 29 Book of Ass. 24.

Trespass, if the Defendant plead that he was enfeofed, the Plaintiff may traverse the Feoffment without making

to him title; otherwise it is in an Affise, 18 Ed.4. fol. 10. 10 Ed.4. f.3. 27 H.6. f.1. and 40 Ed.3. f.5.

Trespass, the Defendant saith, That H. his Tenant at will enfeofed the Plaintiff, and he entred; the Plaintiff saith, That J.S. enfeofed H, and he died seised, and his Issue enfeofed me; the Defendant cannot traverse the Feoffment but the discent; otherwise it is in Affise, 10 H.4. f.1.

Affise, by *Littleton*, the Tenant may plead, Let to him for years, or for life, the Reversion to the Plaintiff, and it is good; and so is it of a Feoffment with warranty of the Plaintiff, and rely upon warranty, 18 Ed.4. f.10. 8 Ed.2. Tit. Aff. 391. & 18 Ed.3. f.13. the same.

Affise, the Tenant pleads, That the Plaintiff let to him for life, and is good; but a Feoffment of the Plaintiff is not good in Affise, but in Trespass it is good, 6 H.7. f.14. 27 Book of Aff. 31. the same, & 29 Book of Aff. 24.

Trespass at *Compton* over C. and nether C. it is no Plea in Trespass, but it is good in Affise, 8 H.6. f.18.

Trespass at D, there are two Ds. within the County, and none without addition, it is no plea, for the V. sine shall be of the body of the County, 3 Ed.4. f.26. and 9 H.6. Tit. 5. the same.

Affise of Lands in *Osgodby*, the Tenant saith, There are two *Osgodbyes* within the County, none without addition, and it is no Plea, for the Plaintiff shall recover by view of the Jurors, 5 Book of Aff. 9. & 27 Ed.3. f.2.

Trespass in *Ottertoun* and H, which H. is a Hamlet of *Ottertoun*, it is a good Plea in *Præcipe*, and not in Trespass, where Damages only are recovered, 7 E.4. f.18. & 4 E.4. Tit. *Erief* 155. & 179.

Trespass may be in a Hamlet, but not in a place onely known, 11 H.7. f.24. 2 R.3. f.1. and 43 E.3. f.30. the same.

Præcipe, in D. is a good Plea in abatement, That D. is a Hamlet and not a Town; but otherwise it is in Affise, 8 E.4. f.8.

Pleas in Bar.

Bar is good at the first shew, or by common Reason and Intent, such intent is a Plea, which hath not more vehement presumption then to intend contrary, but if the intent be indifferent, it is not good at the first shew by Intendment.

Formedon in Descend. r; that he gave not, is good; and yet it may be, that he did recover in value, but the most pressing intendment is to the contrary: but if in debt I plead Release, bearing date after the Obligation, it is not good, at the first face, unless he saith, that it was delivered after the Obligation, *Plowd. Con. f. 32.*

Forging of Deeds, the Defendant saith, That he himself was seised at the time of the Forgery, and it might be by *Disseisin*, but it shall not be intended; and for that it is good at the first shew, *8 H. 6. f. 34.*

Trespas, that he be entred into a Warren, the Defendant pleads his Freehold, and it is good; and yet one may have the Warren, and another the Freehold, *44 Ed. 3. f. 12. 17 E. 4. f. 6. 10 H. 7. f. 24. & 34 H. 6. f. 28.*

Trespas in a several Fishing, the Defendant pleads, That the place is his Freehold, and it is good, as above at the first face, *18 H. 6. f. 29. 10 H. 7. f. 24. 20 H. 6. f. 4. 17 E. 4. f. 6. & 18 E. 4 f. 4.*

Assise of *Mortdancer*, because his Mother took the habit of Religion, the Defendant saith, That your Mother had a husband alive when she entred into Religion, and it is not good; for it is indifferent whether he be alive or nor, and for that he ought to aver, that the husband is yet alive, *5 E. 4. f. 3.*

Trespas of goods, &c. the Defendant justifies, That the property was to J. S. which gave them to him at D; and though he do not say where the property was in him, it shall be intended at D, and good, *1 E. 5. f. 3.*

It is said there, Though the Bar be good to common intent, yet it shall not be good where parcel of the substance is left out; but where such things are left out, which by special intendment, and not by general intendment,

ment are omitted, the Law shall keep such a Bar. *Plowd. Com. f. 27.*

Accounts, the Defendant saith, That he hath accounted before the Plaintiff himself, and it is good; yet he doth not say, That he was before Auditors before him, &c. 4 Ed. 4. f. 6.

Trespas, the Defendant pleads, That he to whose use entcofsted him; and doth not say, If he were out of Prison, and of full age, according to the Statute, and yet being in Bar, it was said, That it shall be so intended, 6 H. 7. fol. 6.

Where Count is upon matter of Record, or of Specialty, the Bar shall be so high, and not upon bare matter.

DEbt upon arrearages of Annuity, the Defendant saith, That he lett the Mannor of D. to him in Recompence, and it is no Plea, for it is not so high, 19 H. 8. fol. 9.

Trespasse upon the Statute of *Rich.* The Defendant pleads in Barr, Warranty of the Ancestor of the Plaintiff, and demands Judgment, if against the Warranty, &c. and it is no Plea, for Damages is only to be recovered, 10 H. 6. f. 12.

Trespas, the Defendant may plead Fine with Proclamation, Judgment, if action; but not to rely upon the estoppel, 27 H. 8. f. 27.

14 H. 4. f. 27. Debt upon a Lease by Indenture, the Defendant saith, That he hath bestowed the Rent upon Reparations by commandment of the Plaintiff, and it is not good, for it is not so high.

10 H. 7. fol. 4. Debt upon arrearages of a Lease for years, the Defendant pleads agreement, and it is not so high.

1 H. 7. fol. 14. The Defendant cannot avoid Specialty by bare matter, as to say, the Specialty was delivered to him in place of an acquittance, for it is not so high.

10 Ed. 4. fol. 18. Debt upon an Obligation, endorsed with condition, That if the Defendant serve him in all his lawful commands, &c. the Defendant may plead, That he discharged him, and it is good without specialty, for the condition is matter in deed.

18 Ed. 4. f. 9. If one covenant by Indenture to make me a house before such a day, and he plead, that I discharged him before the day, it is good without specialty; for I cannot come upon his Land after discharge, 19 E. 4. f. 2. the same.

21 H. 6. f. 36. Trespass of taking his Apprentice, the Defendant saith, That the Plaintiff discharged him before the Trespass of taking, and it seems no Plea; for that he is an Apprentice by Indenture, and the discharge without specialty, and to another person.

9 E. 4. f. 57. Annuity, the Defendant pleads, Levied by distress in another County, and so that he owes him nothing, and it is good; but that he owes him nothing only, is no Plea against specialty.

3 H. 6. f. 41. *Scire facias*, upon recovery of arrears of annuity, Defendant pleads, That the Deed of Annuity was delivered to him in lieu of an Acquittance, and it is no Plea against a Recovery.

11 H. 4. fol. Debt upon Arrearages before Auditors; the Defendant pleads, that he hath an Obligation for the same, and it is no plea, for it is not so high.

11 H. 7. f. 13. Waste, Defendant pleads an agreement between him and the Plaintiff, and it is no Plea, for the Inheritance is to be recovered in this Writ, and for that it is no Plea;

Scire facias, upon a Recognizance to have one here at a certain day to appear, it is no plea to say, I have been there, without shewing his appearance of Record, for it is not so high, 7 H. 6. f. 26. B.

Debt upon arrears of Account before Auditors, the Defendant pleads Arbitrament, and it is no Plea against matter of Record before Auditors, 3 H. 6. f. 55. 8 H. 5. f. 3. the same, 10 H. 6. Tit. 44. 4 H. 6. f. 17. & 3 H. 4. f. 7 H. 4. f. 8. adjudged.

Debt upon an Obligation, the Defendant cannot plead payment, for it is not so high, 5 H. 7. f. 14.

Debt upon an Obligation, indorsed upon condition; the Defendant may plead, that the Plaintiff hath received parcel of the smaller sum, hanging the Writ; and it is good in abatement without specialty, 5 H. 7. f. 4.

Action upon the Statute of Rich: If the Defendant plead Act of Parliament, by force of which he was seised, till the Plaintiff

Plaintiff entered upon him, upon which he re-entered, the which is the same Trespass, &c. and concludes, Judgment if Action, it is good, 3 E.4. f.6.

Annuity by Grant, the Defendant saith in Abatement, That after the Action brought, that the Plaintiff hath received part of the arrearages, and it is no Plea without Specialty, for it is not so high, 22 E.4. f.51.

Debt upon an Obligation, the Defendant pleads receipt of parcel, hanging the Writ, Judgment of the Writ, and it is not good without Specialty, 7 E.4. f.15.

15 H.7. f.10. Debt upon a single Obligation of twenty pound, the Defendant pleads, That the Plaintiff hath received parcel, hanging the Writ, and demands Judgment of the Writ; and it is no plea without shewing acquittance, for it is not so high.

Waste, the Defendant pleads agreement to make Fludgates only, and agreement is no plea in this Action, for it is not so high, for Land is to be recovered, 13 H.7. f.20. 11 H.7. f.13.

Covenant upon Specialty, the Defendant pleads Arbitrament, and it is not good, for it is not so high, 3 H.4. f.2.

Debt upon Obligation, the Defendant cannot plead, That the Plaintiff delivered this Obligation again to him in place of an Acquittance, and took it again from him, for it is not so high, 5 H.4. f.2.

Debt for Rent upon a Lease by Indenture, the Defendant cannot plead payment, for it is not so high; but, Payment, and so he owes him nothing, is good; but where a Lease is by word, payment in debt upon that is good, 1 H.5. f.6. See 46 E.3. f.1. See, 10 H.7. 24.b. 11 H.7. 4.b. 20 H.6. 20. b. & 9 Ed. 4. 27.

Debt upon Obligation upon condition, the Defendant may plead payment according to the condition, without Specialty, 5 H.7. f.41. 5 E.4. f.5. the same.

Debt for Rent upon a Lease, payment is no plea without saying, And so he owes him nothing; but payment in another County is good without concluding, And so he oweth him nothing, 33 H.6. f.4. 10 H.7. f.4. 3 H.7. f.3.

Debt upon a Bargain, where the Defendant may wage his Law, he cannot plead payment in another County, 28 H.6. f.13. 10 H.7. f.4. 11 H.7. 4. b.

Count.

Count shall be more certain then a Bar, and yet sometimes it is good by intendment, that is, If common reason do not imply contrary to the Count, it is good by intendment.

DEbt upon Obligation without date, yet the Plaintiff ought to Count when it was made: But otherwise it is, if the Defendant plead an Acquittance without date, 3 H.4. f.5. 6 Ed.4. f.11. Debt or annuity without date, the same, 3 H.7. 24. B. of Annuity.

Quare Impedit, If the Plaintiff Counts, That four persons were seised of a Mannor, to which the Advowson is appendant, whose Estate he hath, it is not good without Counting how he hath it: otherwise it is, in Bar, 2 H.6. f.10.

Action upon the Case, of borrowing a Horse to ride to York, and counts, that he rid him further; he ought to count in what County York is, 21 E.4. f.79. B.

Debt, and counts, that if the Defendant make voluntary waste, he should pay twenty shillings, and counts, that he made waste in sail; and for that, that he doth not count how, it is not certain, and not good, 9 H.6. f.11.

Decies tantum, for imbracing, and counts, That at D. he hath taken money to imbrace; but for that, that he doth not count that he hath imbraced, nor how or where he imbraced, it is not good, 37 H.6. f.31.

Deceit against an Attorney, for acknowledging satisfaction, and ought to count where he was not satisfied, for otherwise it is uncertain, and shall not be implied, and intended, 11 H.6. f.2. B.

Rescous, and counts, that he distrained for Rent, &c, and for that, that he doth not count which were the dayes of payment, it is not certain, and it is not good, 8 H.4. fol. 1.

Where one avows for that, That he held of him by the third part of the Fee of Knights Service, and for that, that he doth not shew by what manner of Knights Service, it is not good, 12 H.8. f.13.

Debt by Stradling, and counts of taking excessive Fees in paying

paying Pensions, where the Defendant was Receiver of the Mannors of D. and S, in the hands of H. 8. and for that, that he doth not count, that they continued in the hands of Ed. 6. it is not good : for the Statute was made in the time of Ed. 6. that if any Receiver of the King took, &c. he should pay for every penny six shillings eight pence; and that might have two meanings, one with the Plaintiff, the other against him, and for that it is not good, R.C.f. 202.

Forging of Deeds, the Writ is, divers false Deeds, and counts of a Deed of Feoffment, and of a Writing and assurance of a Letter of Attorney ; and for that the Count is not good, 35 H. 6. fol. 37. B.

Debt the Plaintiff counts upon a Lease made by him, and E. late his Wife, by Deed indent, and counts for the Rent behind ; and though he do not count that his Wife was dead, yet it is good, for it cannot be by reason but she is dead, 9 H. 6. fol. 11. B. and 8 H. 5. fol. 4.

Account, the Plaintiff counts that the Defendant was his Receiver such a day, till the Feast of Saint Michael ; and there are two Feasts of Saint Michael, that is Michael in Tumbt, and Michael the Arch-Angel ; and though it be not at which Saint Michael, it is good, and shall be intended Michael the Arch-Angel, which is more known, and the more observed Feast, 20 H. 6. fol. 23.

Trespass, and counts that the Defendant entred into a Warren at D, and drove away the Conies ; and doth not say, drove them away there : yet it is good, and shall be intended there, 44 Ed. 3. fol. 12.

where he confesses and avoids, he need not Traverse.

Detinue of finding a Box, sealed with Writings, the Defendant saith, That they were delivered in pawn to him for a hundred shillings ; and if he pay that, he would re-deliver him it : and it is good without Traverse, for he confesses, and avoids the Plaintiff, 21 Ed. 4. fol. 19.

Detinue of a Chest ensealed with Writings ; the Defendant saith, That the Writings which he had were in a Box ensealed, and the Plaintiff lent him a hundred shillings, and delivered this Box unto him in pawn, without that, that he detains a Chest, and it is good ; and it is good with Traverse, otherwise not, 22 Ed. 4. fol. 7.

Trespas of breaking his House, and taking his Goods there; the Defendant saith, That his Wife was Executrix, and that they were the Goods of the Testator, and the Door was open, and he entred and took them; and this is good without Traverse, for he hath confessed and avoided, 2 H. 6. fol. 15. B.

Trespas of his Goods taken, the Defendant saith, They were delivered to him by a Replegeare; and it is good without Traverse, 7 H. 4. fol. 15. and 44 E. 3. fol. 20.

Trespas of his Goods taken, the Defendant saith, They were delivered to him upon an Execution upon a Recovery, and this is good, 40 E. 3. fol. 21. and 44 E. 3. fol. 20.

Trespas of Close broken, the Defendant saith, That he had a way there by Prescription to his Mannor, which he used, and ought there to Traverse without that, that he broke down, for the other is not breaking down, 8 H. 5. fol. 2.

13 H. 8. fol. 14. *Quare Impedit* against *J. Hecker*, of an Advowson appendant; the Defendant saith, That it is an Advowson in gross, and that *W. S.* his Master presented *W. S.* and that he died, and *J. Hecker* was chosen Master, and presented *J. Hecker*, the Defendant; and for that he hath confessed and avoided the Plaintiff for gaining of Possession, and for that he need not any Traverse.

10 H. 7. fol. 27. *Quare Impedit*, and counts of an Advowson in gross; the Defendant saith, That it is appendant to a Mannor which descended unto him, and he ought to Traverse.

5 H. 7. fol. 12. Trespas, Defendant saith, That *Nicholas* his Grand-Father was seised in Fee, and died seised, and that descended to his Father, and he entred, and by Provestation died seised, and that descended to him: Plaintiff saith, That *J. S.* gave to *Nicholas* in Tail, and that descended unto him as Son; and it is not good without Traversing the dying seised in Fee of *Nicholas*, or confesse and avoid it.

Trespas, the Defendant pleads a Grant made to him by *E.* and the Plaintiff pleads, that *H. 6.* by authority of Parliament, granted that to him, and is good; for that confesses and avoids the Grant: 7 H. 7. fol. 15.

Quare Impedit against a Prior; the Plaintiff counts, that he was seised of an Advowson in gross, and presented; the Defendant saith, That he was seised in right of his Monastery

tery in grosse, and presented J, and after, his Predecessor granted the next avoidance to the Plaintiff, and to the Presentee A, and good, for he hath confessed and avoided; 26 H.8. fol. 5.

Trespas, the Defendant conveys the Land to her as Sister to B; the Plaintiff saith, That B, had Issue a Daughter, and that he as Guardian in Socage entred: and it is good without Traverse, for he hath confessed and avoided, 19 H. 8. fol. 11. B.

Assise, the Tenant pleads that J. S. infeoffed him: the Plaintiff saith, That well and true it is, that J.S. infeoffed you; but it was upon condition, and that J.S. entered for the condition, and infeoffed the Plaintiff, and this is good; for he confesses and avoids the Defendant, 1 H.7. fol.8.

Forging of Deeds, and counts, that the Defendant hath forged a Deed, by which J. Beak infeoffed W. T. the Defendant saith, That long time before the Plaintiff had any thing, that J. Beak infeoffed W. and Alice his Wife, which died; and the Defendant as Heir of W, read and proclaimed the Deed, and ought to traverse forging; for where the Defendant justifies any thing, prohibited by the Law in a special manner, he ought to traverse, as in Maintenance; if he justifie, he shall say, Without that, that he maintained in other manner: 32 H. 6. fol.1.

Trespas of Assault and Threatning, the Defendant saith, That the Plaintiff called him Traytor; and he said, Thou liest in thy Throat, it is no Plea; for he doth not confess any Threatning, 37 H.6. fol.3.

CONCLUDE.

Order and Form, how one ought to conclude in his Plea.

VV Here to a Bar there ought to be a Reply; the conclusion of his Plea shall be (and this he is ready to prove) &c. and where (but ready that so) there it is otherwise: 33 H.6. fol. 21. and 12 Ed.4. fol. 13. the same.

As in Dower, the Tenant pleaded (not ever seised that Dower) he ought to conclude, (and of this he puts himself upon the Country) for no Reply shall be, (but ready that so.)

Where the Defendant pleads to the Issue, the conclusion shall be (and of this he puts himself upon the Country); and where the Plaintiff pleads to the Issue, he shall say, (and he desires that this may be inquired by the Country) 26 H. 8. fol. 4.

If one plead a Plea, which is not traversable, as No wrong, or General Issue, or Record, as Out-lawry, he need not in his conclusion averr his Plea, that is, (and this he is ready to prove) &c. 36 H. 6. fol. 17.

When the Defendant justifies, he ought to conclude, (and this he is ready to prove, &c.) and when he pleads the general Issue, he need not, 6 H. 4. fol. 18. and the Book of Entries 152. the same.

Quare Impedit, If the Defendant plead, that it is incorporated by another name, Judgment if Action; this conclusion is not good, but he ought to conclude, Judgment of the Writ, 26 H. 8. fol. 1. and 4 H. 6. fol. 27.

Where the Defendant saith, That the parties to the Fine have nothing, but on such a one, whose Estate he hath, he ought to conclude (and this he desires may be inquired by the Country) and the aforesaid Plaintiff likewise, it shall be entred; for here needs no Reply, but ready, that so as above, 12 Ed. 4. fol. 13.

Debt upon Obligation, the Defendant saith, that it was endorsed upon condition to perform Covenants of an Indenture, and that part was read, and part not, and that he was a man unlearned; there he ought to conclude Judgment, if Action: the same Law is, where he saith, It was made by constraint, or that he was under age, or that it was delivered as an Escrow, 7 Ed. 4. fol. 3. B. he ought to say Judgment, if Action, 14 H. 8. fol. 30.

Debt upon Obligation, to plead payment, and delivery of that in place of an Acquittance, he ought to conclude Judgment, if Action; but if he avoid that, for that it is rased or interlined, there it shall be concluded not his Deed; for where a Deed is void, he ought to conclude, Not his Deed; and where voidable, or matter in Law, Judgment, if Action, 1 H. 7. fol. 14.

Debt upon Obligation; to say, He is a man unlearned; and this was read to him, to be with Condition, and so this Obligation being single, is not his Deed, 7 Ed. 4. fol. 5. 15 E. 4. fol. 17. 16 E. 4. fol. 1. the same. 9 H. 5. fol. 15. and 3 H. 6. fol. 52.

Debt

Debt upon a Lease to plead payment in another County, or levied by Distress, without concluding, (and so he owes him nothing) is good, 9 Ed. 4. fol. 57. 3 H. 7. fol. 3. and 33 H. 6. fol. 4. the same; but levied by distress or payment in the same County, is not good, without Concluding, (And so he owes him nothing.)

Debt for wages upon a Bargain, to plead payment in the same County, and conclude, And so he oweth him nothing; is good, 40 Ed. 3. fol. 24.

Debt upon a Lease by Indenture, for the Defendant to plead payment in the same County; it is no plea, without concluding, And so he oweth him nothing, to the point of the Writ, 1 H. 5. fol. 6.

Where he ought to conclude, And so not his Deed.

DEbt upon a single Obligation, the Defendant saith, that he is a man unlearned, and this was read to him with a Condition, and so not his Deed, 1 H. 6.

3 H. 6. fol. 38. Debt by a Husband and his Wife, of an Obligation made to them; the Defendant being Executor of J. S. pleads Release of the Husband made to him, and the Release was of all Actions and Demands, as Executor, and all Actions personal, and other Demands; and the Plaintiff saith, that he is a man not learned; and it was read for Actions, as Executor, and so not his Deed, and good: See 3 H. 7. fol. 5. and 19 H. 8.

1 H. 7. fol. 14. If the Defendant confess, that once by his own plea (his Deed), he cannot afterwards conclude, (and so not his Deed): As if an Infant makes a Deed, or a man by constraint, if he plead these matters to avoid that, he cannot conclude (And so not his deed): but where an Obligation is void, he ought to conclude, And so not his Deed; as where an Obligation is made by a married Wife, or a Deed rased or interlined, 2 E. 3. fol. 5. the same.

where he ought to conclude according to his matter pleaded,

Littleton, fol. 39. Six manner of men are, against which if they sue Actions, Judgment may be demanded, if they shall be answered in the conclusion of his Plea; and first, If he say, That the Plaintiff is his Villain, he shall say Judgment, if he shall be answered: Second, Is outlawed: Third, Is a stranger born: Fourth, Is one attainted in a *Præmunire*: Fifth, Is professed in Religion: Sixth, Is excommunicated: The Defendant may plead these, and demand Judgment, if the Plaintiff shall be answered.

34 H. fol. 9. If the Tenant plead Joynt-tenancy, or other plea in abatement, he ought to conclude Judgment of the Writ; and where one pleads in Bar, he ought there to conclude Judgment, if Action.

49 Ed. 3. fol. 24. Account of Receit in C, the Defendant saith, That C. is within the five Ports; Judgment, if the Court will acknowledge it, and so alwayes to the Jurisdiction, that is conclusion, as Parson sue for Tythes, &c.

In divers Cases they ought to conclude in the Negative; where so to the Affirmative pleads, that his Plea is but as an Argument, and not full Answer, and also to make the matter in Law plain.

Scire Facias against a Parson of Arrearages of an Annuity; the Defendant pleads, That before the Writ purchased, he resigned, and so not Parson, and it is good, 7 Edw. 4. fol. 16.

10 H. 7. fol. 4. Said in Debt upon a Lease for the Rent behind; if the Defendant pleads payment in another Countrey, this is good without concluding, (and so he owes him nothing, &c.) But if he plead payment in the same Countrey, it is no plea without concluding, And so he owes him nothing, 9 E. 4. fol. the last.

9 Ed. 4. fol. 15. Debt against Executor, which pleads, that J. S. recovered against them an hundred pounds, and had Execution, and they have nothing come to their hands besides that: the Plaintiff saith, The Testator did owe nothing to J. S. and so the Recovery false and feigned.

21 Ed. 4. fol. 71. Dower, The Tenant saith, That the Husband

band was not seised, that she could have Dower, &c. The Plaintiff saith, that the Father of her husband died seised, and that descended to her husband, which died before Entry, and so he died seised, and in Formedon of Lands recovered in value, he ought to conclude, And so gave.

9 H. 8. fol. 6. Right of Ward, and counts that the Ancestor of the Infant died in his Homage; the Defendant saith, That he held of him in Socage, without that, that he died in his Homage: the Plaintiff saith, That J. S. and D. were seised to the use of the Ancestor of the Infant, and so the Ancestor died in his Homage.

12 H. 7. fol. 7. Where the matter before the (So) is sufficient Bar, there the (So) shall not be entered, as in Trespass or Assise, the Tenant justifies, and so not Guilty.

32 H. 6. fol. 16. Where the matter before the (So) is matter of Bar, and sufficient, there the matter after the (So) is not traversable; and contrary, if not sufficient.

5 E. 4. fol. 5. Debt upon an Obligation for Bail, and is named Sheriff; the Defendant ought to plead that, and conclude, And so not his Deed; but not generally, It is not his Deed.

19 H. 8. fol. 7. *Juris utrum*, the Tenant saith, That his Father was seized, and died seised, and the aforesaid Plaintiff abated, and he recovered, and so, his Lay-Fee, and not the frank-gift of the Plaintiff.

38 H. 8. fol. 26. Debt upon an Obligation, Defendant pleads divers matters, and concludes, And so not his Deed, and this conclusion hath made this single.

Of his own Wrong.

where of his own wrong is good, and where not.

Replegeare, the Defendant avows as Bayliff, for that a Prior held of his Mannor by Fealty and Rent, the Plaintiff saith, Of his own Wrong, without such case, it is no Plea; for here he ought to answer the substance, which is material, that is to say, the Lordship, 2 H. 5. fol. 1.

Where one justifies by a Lease made to him by the Plaintiff, Of his own wrong, is no Plea: otherwise it is, where he justifies a Servant of a Lessee, 10 H. 4. fol. 3.

If the Defendant justifie by license, or Commandment of the Plaintiff, the Plaintiff shall not say, Of his own Wrong, without such cause, nor if parcel be of Record, for these ought to be answered specially: 12 Ed. 1. fol. 10.

Trespass of Imprisonment, the Defendant justifies, for that he is Constable, and was assaulted by him, and broke the Peace; the Plaintiff may here say, Of his own wrong, without such cause, for that, that no Record was alleged, 5 H. 7. fol. 6.

Trespass of Battery, the Defendant saith, Of his own assault: the Plaintiff saith, Of his own Wrong, without such cause, and this is good; 5 H. 7. fol. 1.

Trespass, where one justifies as Servant by Command, that he arrested the Plaintiff, or that he came at the request of the Sergeant, &c. Of his own wrong, without such cause, is no Plea, 2 Ed. 4. fol. 6. See 9 Ed. 4. fol. 31.

If the Defendant plead license, or a lease of the Plaintiff, Of his own wrong, is no Plea, 20 E. 4. fol. 4. 21 E. 4. fol. 76. 10 H. 6. fol. 3. & fol. 9. the same.

Where a Sheriff justifies to make Execution, Of his own wrong, is no Plea; otherwise it is, where he justifies as Servant of the Lessor: 10 H. fol. 3.

Trespass of Battery, Defendant saith, That the Plaintiff beat one *W.* to Death, and the Constable came to arrest him, and he stood at defiance; by which the Defendant came in aid, and the hurt which he had was of his own assault; the Plaintiff saith, Of his own wrong, without any such cause, and good: 38 Ed. 3. fol. 9.

Trespass of Grass cut, the Defendant justifies as Parson of the Parish, and that he took them as Tythes separated from the nine parts; the Plaintiff saith, Of his own wrong, without such cause, and it seems it is no plea; and then the Plaintiff replied as above, without that, that they were severed from the nine parts, and good: 16 Edm. 4. fol. 3.

9 Ed. 4. fol. 27. Trespass, the Defendant justifies the Imprisonment, for that, that the Plaintiff assaulted *J. N.* to have robbed him, for which he put him in the Stocks, Of his own wrong, &c. is good.

41 E. 3. fol. 29. Trespass, the Defendant justifies, for that Attachment was awarded out of the Court-Baron, to the Bayliff,

Bayliff, to attach a Horse upon a plaint entred there by him, and that he came in aid of the Bayliff : the Plaintiff saith, Of his own wrong, without such cause, and this is good.

38 E. 3. fol. 3. Replegeare of Beasts taken, the Defendant justifies for Execution of a Recovery in Court-Baron of twenty shillings; the Plaintiff saith, Of his own wrong, without such cause, and held, that he shall not have this generall Averment, against a special matter, by which he said, That the Beasts were not delivered in Execution.

14 H. 8. fol. 14. False Imprisonment, the Defendant justifies the Arrest of the Plaintiff, by a Warrant of a Justice of the Peace, when the truth was, That when he was arrested he had no warrant, but after had a warrant directed to him; the Plaintiff may say, Of his own wrong, without that, that he hath any such Warrant, and give the matter in Evidence.

2 E. 4. fol. 9. False Imprisonment; the Defendant justifies, That he took the Plaintiff wandring in the night for suspicion, &c. the Plaintiff may say, Of his own wrong, without such cause; but he cannot say, Of his own wrong, without that, that he was wandring : for he cannot traverse the special matter, but where it is matter of Record, or of Writing, and not where it is matter in Deed.

13 R. 2. tit. 28. Rescues, the Defendant justifies to make Replevin by Warrant of the Sheriff; the Plaintiff saith, Of his own wrong, without such cause; and it is not allowed against this special matter, but of his own wrong, without that, that he had a Warrant of the Sheriff at the time of the delivering of the Distresse, &c.

33 H. 6. f. 47. Trespals of Goods taken in the County of Darby, the Defendant saith, That the Plaintiff sold them to J. S. in the County of Middlesex. and he by his Commandment took them; the Plaintiff saith, Of his own wrong, without that, that J. S. commanded him in manner and form, and is good.

22 Book of Ass. 57. The Defendant justifies as under the Escheator, for that Tenant of the King aliened without License, and shews a Commission; and the Plaintiff saith, Of his own wrong, without such cause, and is good.

8 H. 6. f. 34. Trespals of Grass cut, the Defendant saith That the place where, &c. was the Freehold of his Master;
By,

by which, by his Commandment he entred, and made the Trespass; the Plaintiff saith, Of his own Wrong, without such cause, and is good; but if the Master himself had been party, and had pleaded his Free-hold, Of his own wrong, &c. had been no Plea.

28 *Ed. 3. fol. 58.* Trespass of Goods taken, the Defendant justifies by the Commandment of his Master, for that, that the Plaintiff is his Villain; the Plaintiff saith, Of his own Wrong, and is no Plea without answering to the Villainage.

10 *H. 6. fol. 3.* Trespass of two Horses taken; the Defendant saith, That he lett to the Plaintiff Land, rendering the Rent of twenty shillings; and for this Rent behind, he entred, and took the Horses; and the Plaintiff saith, Of his own wrong, without such cause; and by *Cot more* it is no Plea, but he ought to answer to the special matter, as to say, Of his own Wrong, without that, that any Rent was behind, 21 *Ed. 4. fol. 64.*

42 *Ed. 3. fol. 2.* Trespass, for chasing in his free Chase, the Defendant pleads license of the Plaintiff to hunt there; the Plaintiff saith, Of his own Wrong, without such cause: Inquire of this Issue.

16 *H. 7. fol. 3.* Trespass of Goods taken, where the Defendant conveys his Title from the Plaintiff, there the Plaintiff by replication may say, Of his own Wrong, without such cause, 9 *Ed. 3. fol. 41.* the same.

9 *Ed. 4. fol. 43.* Trespass of a Bag with money, the Defendant saith, That the Plaintiff was indebted to him in a certain sum, and delivered that unto him to content him; the Plaintiff saith, Of his own Wrong, without such cause; and it is no Plea, for that, that he conveys from the Plaintiff himself.

10 *H. 6. fol. 9.* Trespass, for entering into his Pigeon-house, and taking of Pigeons; the Defendant pleads, That the Plaintiff gave him leave to take them, the Plaintiff may say, Of his own wrong, without that, that he gave him leave, 20 *Ed. 4. fol. 4.*

21 *Ed. 4. fol. 76.* Where the Defendant conveys from the Plaintiff, or his Ancestor, or that it is his Free-hold, these shall be answered, and there, Of his own Wrong, without such cause general, is no good Replication;

44 Ed.3. fol.13. Trespass, the Defendant justifies for Harriot; the Plaintiff saith, Of his own wrong, without such cause, the Issue was taken upon that, 38 Ed.3. f.7. the same.

44 Ed. 3. fol.18. Trespass, the Defendant justifies for that, that the Plaintiff was in Ward to the Prince, and he seised him, and granted the Ward to him, by which he entered and occupied: The Plaintiff saith, Of his own wrong, without such cause, and it is no Plea by the Court, but he ought to answer to the special matter, by which the Issue was taken that he held in Socage, and not in Knights Service. See 22 Book of Ass. 56. 41 Book of Ass. 21. and 12 Ed.4. fol.10.

14 H.4. f.32. Trespass of his Servant taken, the Defendant justifies, for that the Father of him, which is said to be Servant, held of J.S. in Knights Service, and that he died, and the Land descended to the Infant called Servant, being within age, and that the Defendant by the commandment of the said J.S. seised him; the Plaintiff saith, Of his own wrong, without such cause: and by *Cheney*, and *Hull*, for that, that the Defendant hath alledged special matter, that is, Tenure in Knights Service, the Plaintiff ought to answer to the special matter, and this is no Plea. See 22 Book of Ass. 85.

33 H.6. fol.29. Trespass, where the Defendant justifies by the Kings Patent of his own wrong, &c. is no Plea.

9 Ed.4. fol.22. Trespass, where the Defendant justifies by Wreck by Prescription, the Plaintiff saith, Of his own wrong, without that, that it was a Wreck, and good.

5 H.7. f.9. Trespass, the Defendant justifies by custome of Foldage by Prescription, of all Sheep which pasture in such a Common, the Plaintiff there saith, Of his own wrong, without such cause.

where

*where a double Plea shall not be suffered;
and where it shall.*

PRior brought a *Quare Impedit*, and counts, that his Predecessor was seised and presented, and the King seised his Temporalties because of War, and presented, and now it is void, and it belongeth to him to present, and it is not double, 40 Ed. 3. f. 10.

But in *Quare Impedit*, and counts of divers presentments in his Ancestors, this is double, 1 H. 5. f. 1.

Quare Impedit, by Tenant in Tail, and alledgeth a Presentment in the Donor, and another in the Donee, this is not double; for the gift is traversable: But, if he alledge Presentment in the Feoffor, and another in the Feoffee this is double, 4 Ed. 4. f. 3.

Debt against Executors, to plead, Fully administrated, and so nothing in their hands, is not double; for one Answer makes an end of all, that is, that they have Assets, 3 H. 6. f. 3.

Debt upon Obligation, and pleads Payment, and Delivery of the Obligation in place of an Acquittance, it is not double; for one Answer shall be for all, 1 H. 7. f. 15. and also it is no Plea.

Trespasse, the Defendant pleads Gift in tail, and divers Discents, and it is not double, for the Gift is onely traversable, 19 E. 4. f. 4.

Bastardy is pleaded to ten Acres, and Release of all Actions, and that is double, 10 H. 6. f. 20.

Non-Tenure is pleaded to part, and Bastardy to the rest, and this is double, 42 E. 3. f. 29. B. Inquire, 33 H. 6. f. 20. & 40 E. 3. f. 21.

Dower, the Tenant may plead Joynt-Tenancy of part, and that she detains writings for the rest, which goes to all, and it is not double, 33 H. 6. f. 57. & 40 E. 3. f. 30.

Affise of a Mannor, the Defendant pleads a Fine of one half to J. S. whose Estate he hath; and to the other half pleads a Release of the Father of the Demandant, with warranty, and demands Judgment, if against warranty, Affise ought to have been of that Moieties, and it is not double;

double; for this goes but to the Moier, and is not, &c.
37 H.6. f.24.

Debt upon an Obligation, That he was a Lay-man un-
learned, and the day of payment was read to be at another
day, and that it was delivered as an Escrow upon condi-
tion, that if others sealed, &c. and the others did not seal,
and so not his deed; this conclusion hath made that single,
38 H.6. f.26.

Intendments.

Pleas good by Intendment; and how.

Information for Liveries, it is shewed, that Cloth was
given at D, but not how it was used, and it shall be in-
tended there, and good; and Trespas, he broke his Clofe
at D, and made an Entry, and shall be intended to be there,
5 H.7. f.18.

Appeal of Rape, (is *Rapuit*) and though it be not felo-
niously *rapuit*, it shall be intended, 2 H.6. f.1.

Waste against *Beatrix*, which was the wife of the Earl
of *Arundel*; though that she were not named Countesse,
it is good, and shall be intended Countesse, 2 H.6. fol.
11.

Debt, and counts upon Indenture, That the eldest Son
ought to marry K; and if he dyed before carnal knowledge,
then that the youngest should marry her, if the Ecclesiasti-
call Law would permit it; and counts, that he purchased a
Dispensation, and required him to marry her, and he re-
fused; and though he do not shew, if the Request to mar-
ry K. was before noon or not, nor if K. were alive at the
time of the Request, it is good, and it shall be intended,
12 H.8. f.6.

Trespasse, one Justifies as Servant of J. S. and though
he do not say [and by his Commandment] it is good, and
shall be intended, 13 H.7. f.13.

If one plead a Deed dated at D, it shall be intended de-
livered there, 1 H.6. f.3.

Waste by the Priorelle of the House and Church of C,
the Writ was to the dis-inheriting of the Priorells of the
House

House and Church of C. (leaving out *Præ. ill.*) but it shall be intended, 10 H. 4. f. 5.

Annuity is Grant, provided that he be of honest conversation; and the Grantee pleads in Action, That he was of honest conversation; and, that he doth not say always after the Grant, it shall be intended to be of honest conversation; for every one shall be intended to be of honest conversation, till the contrary be shewed, 22 Ed. 4. fol. 28.

Divers pleadings shall be good by Intendment, as in Action against the Sheriff for imbezelling a Writ, and doth not say, that he was Sheriff at the time of imbezelling, but it shall be intended, 22 Ed. 4. b. Tit. Pleading, 109.

If one plead, That one *John Purchase*, Master of the Colledge, and his fellow-brethren, were seised in Fee, that shall be intended in Right of their Colledge, for it hath but one Intendment, *Plowd. Com. f. 102. Fulm. rstone.*

Entry upon the Statute of *Rich.* the Defendant saith, That the third part was to J. S. and that he entred by his commandment, and doth not say, whether the third part were severed or not; but it shall be intended severed, and good, 37 H. 6. 38. and 38 H. 6. f. 8. the same.

Trespasse of two Coffers taken in D, the Defendant saith, That the property was to J. S. and gave them at D. to him; and though he do not shew how the property was to him, it is good, and shall be intended when the gift was made, 1 E. 5. f. 3.

Scire facias by Sir T. *Chaworth*, Cozen and heir of one *Hawes*, of a gift by *Hawes* in Tail, and the Remainder in tail, and counts, That the Donee, and he in Remainder are dead, without heir of their Bodies, and that to him ought to revert as Cozen and heir of *Hawes*, and though he do not say that *Hawes* is dead, it shall be intended; for otherwise it cannot revert to him, as Cozen, &c. 33 H. 6. f. 54.

Where one avoweth, and saith he was seised by the hands of one J. S. his Tenant; and though he do not say, Then his Tenant, it shall be intended, 34 H. 6. f. 8.

14 H. 8. f. 12. Waste against P. which he held for term of years, and counts, That in the tenth year of H. 7. the
Plaintiff

Plaintiff let to P. for term of one year, and from, and so from year to year, so long as both parties were pleased, (by vertue of which) he was possessed and occupied by 24 years, and now it is thirty years, from the 10. of H. 7, and where the Count is, (by vertue of which) he occupied by 24. years, by implication it shall be intended, and no more; and it shall be (which he held) and not, which he doth hold.

Plowd. Com. f. 409. Where H. C. devised, &c. That none of his Sons should alien, and it is pleaded, That H.C. hath issue J. and F. that shall not be intended that he hath more, till the contrary be shewed of the other party.

12 H. 8. fol. 3. Trespasse, Why he beat his Servant, and took away a dog called a Blood-Hound; and though he do not count, That he might spend forty shillings, it shall be intended, that he might, till the contrary be shewed.

9 H. 6. fol. 10. Debt, and counts of a Lease, by the Plaintiff, and E. late his Wife; and though he do not count that she is dead, it shall be intended.

20 H. 6. f. 24. Account, and Counts, That the Defendant was his Receiver, at such a day, untill the Feast of Saint Michael; and it is not Michael the Arch-Angel, nor Michael in Thumba, and it shall be intended Michael the Arch-Angel, and good.

8 H. 5. f. 4. *Quare Impedit*, by the husband and his Wife, and counts, That they were seised of a Mannor, in Right of his Wife, to which an Advowson was appendant; and though he doth not shew what Estate, it shall be intended the best Estate, Fee-simple.

36 H. 7. f. 3. Trespasse, and Counts of assault at D, and gave so many threatnings, that about his businesse, &c. and doth not shew where, and shall be intended at D, and good.

Plea good by Intendment, till contrary be shewed.

Plowd. Com. fol. 74. *Affise, Wimbishe, Venire facias*, directed to the Coroner, which surmise in the end, That the Sheriff is Cozen, and the Affise to the Coroners is also (except *Curson* his Cozen) and it is good, and shall be intended Cozen of the whole blood, till the contrary be shewed by the Defendant.

19 H.8. f.11. Trespass, Defendant saith, That *N.* was seized in Fee, and died seized, and that descended to him as Cozen and next heir, that is, Son of *N.* Sister of *B.* Plaintiff saith, That *B.* had Issue a daughter, and that he is Guardian in Socage of his daughter, took her, and good; and though it might be, that the daughter were of the half blood, it shall not be intended, till it be shewed of the other part.

Plowd. Com. f. 103. Fulmerstone, Trespass, the Defendant saith, That in the thirtieth year of H. 8. that *W.* Master of *Rushworth*, and his fellow-brethren, let to him an hundred Acres, parcel of the Mannor of *E.* for fifty years. The Plaintiff saith, That before, that is, in the years, &c. *J. P.* Master, and his Fellow-Brethren, let to the Defendant the Mannor of *E.* except a Tenement late *Largentine*, for sixty years, and that by the Statute of 31 H.8. for that, that the first Lease was in being, the second was void; and though that by Replecation he doth not shew that *J. P.* the Master was seized in right of the Colledge, it shall be intended, till the contrary be shewed.

Plowdens Commentaries, f. 26. Colthirst, Barr is good to common intent, though it be not good to every special intent, yet where parcel of the substance is left out, it is not good; It is good to common intent, where such intent is not indifferent; but is such intent which hath more stronger presumption than any other intent hath.

3 Ed.2. Tit. *Escheat* 8. And counts, that his Tenant committed Felony, by which he was attainr, and the Count was challenged, for that, that he doth not say, for what Felony, and yet good; for it is not material, for what Felony it was.

GENERAL ISSUE.

Trespas upon the Statute of *Riebard*, the Defendant pleads his Freehold, and it is not general Issue in this, but it is good in Trespass; Ravishment, not guilty, is the general Issue; and in maintenance, not culpable, 2 Ed. 4. pl. 6.

Action upon the Statute of Liveries, said, That not guilty, is no Plea; but, that he gave not the Liveries, is good; and in Maintenance saith, That not guilty is no Plea, but that he did not maintain: yet inquire, 8 H. 6. f. 36. B.

Debt upon a matter of Record, He oweth him nothing, is no Plea; but in maintenance not guilty, or he did not maintain, is good; and in forging of Deeds, not guilty is good, 12 H. 7. f. 14.

Debt for Scavage, held where the Action is grounded upon a Statute, and upon a matter indeed, he owes him nothing, is a good Plea, 21 H. 7. 14.

Forcible Entry, not guilty, is good, 14 H. 6. f. 16. *Fitzh.* 249. D.

Trespass of Goods taken, the Defendant saith, That the Property of these was to J. S. which gave them to him, without that, that he took Goods of the Plaintiff, and this amounts to Not guilty: and by the Court adjudged, That nothing shall be entered, but not guilty, and shall give that matter in evidence, 9 H. 6. f. 11.

Assise, the Tenant cannot plead Feoffment of the Plaintiff made to him, for that amounts to general Issue; and the general Issue. No wrong shall be entered, 2 H. 4. f. 20. and 43 Book of Ass. 41.

Premunire, of that, that the Defendant draws him out of the Realm in plea, whereof Conusars to the King be- longs; the Defendant saith, That he was Executor to J. S. and was in Court of Audience to prove the Will, and for that he could not have right there, he appealed to Rome, and nothing shall be entered but the general Issue, 2 R. 3. f. 18.

Trespass of Goods, for the Defendant to say, That the place is his Freehold, and he took them doing Damage, it is no Plea, but he ought to tell the certainty of the Land;

but of Trespass in Land his Freehold is good, 5 H.7. fol. 18. B.

See Brook, Title, Generall Issue.

Pleas uncertain.

where it is uncertain in place ; and where not.

Trespass, for that, that the Defendant holds Land of him in *Respleigh*, by reason of which he ought to scower ditches, and for that he doth not shew where those ditches are, it is not good, 46 Ed.3. f.8.

Trespass, it is a good Plea to plead, That there was an Arbitrament that he should pay ten pounds, which he hath paid, without saying, where he hath paid it, 8 H.6. fol. 74.

If Surrender or Attornment be pleaded, which is matter in deed traversable, it ought to be shewed where it was made, 18 Ed.4. f.16. B.

Where one avows upon a Grant of a Rent-Charge made to him, and one attorned, he ought to shew in what place, 2 R.3. f.13.

Annuity, the Defendant saith, That he tendered that to him, and for that he doth not shew where, it is not good; for it is matter in deed issuable, which ought to be shewed certain, 9 H.6. f.16.

Held if one plead Arbitrament in Barr, he ought to shew where the Submission was made, 9 H.6. f. 50.

Decies tantum, for imbracing, and for that he doth not shew where, it is not good, 37 H.6. f.31.

1 R.3. f.1. Presentment in the Sheriffs Turn, That *A.* Abbot of *D.* had a Tann-house, and had tanned Leather insufficiently, and that he had sold and uttered the same Leather, contrary to the Statute; and for that he doth not shew in what place it was sold and uttered, it is not good; for there is no place upon which the view shall be, and that is material.

3 Ed.4. f. 30. Trespass, Defendant pleads Lease for years, and ought to shew where it was made, for it is traversable.

5 H.7. f.3. Presentment, That an Abbot and his Successors use to cleanse a Gutter by the high-way, by reason of the Tenure of some of their Land, and this is issuable, for that it ought to be alledged where the Land is.

Where one avows for Rent-Charge granted to him by Deed, he ought to shew in what County, and where it was granted, 3 E.4. f.11.

If one plead a Lease made to him for years, he ought to shew where it was made, 5 H.7. f.24. & 3 E.4. fol.27.B. 18 E.4. f. the same.

Falſe Imprisonment, if the Defendant justify the Arrest by Precept, he ought to shew where the Precept was made, 14 H.8. f.18. & 21 H.7. 73. the same.

Where the Defendant pleads, That J.S. hath Goods in divers Dioceſſes, and the Administration belongs to the Metropolitan, if he do not shew in what Town the Goods are, it is not good, 10 H.7. f.16.

Debt upon Arrearages of Annuity granted to him, till he were promoted to a Benefice, to plead, That he took a Wife is not good, if he do not shew where, for it is traversable, 35 H.6. f.50.

Where the thing is issuable, it ought to be shewed in what place it was.

Information of Liveries, the Plaintiff ought to count where the Cloth was given, that is, at D. 5 H.7. f.18.

12 E.4. f.11. Trespass, Defendant saith, That the place where, &c. is the Freehold of J. S, and that he by his commandment entered, he ought to shew where the commandment was given; but if he justify as a servant, and by his commandment, he need not shew where the commandment was.

35 H.6. f.59. Debt upon Arrearages of Annuity, the Defendant saith, It was granted to the Plaintiff, till he was promoted to a Benefice, and saith, that he was promoted to a Benefice, and ought to shew where, for it is issuable.

Uncertain for Year or Day.

Trespas, the Defendant justifies, That he entred at Lord, for that the Tenant aliened in Mortmain; and for that he doth not shew what Day and Year, it is not good, 7 H. 7. fol. 3.

Quare Impedit, the Defendant saith, That the next Avoidance was granted to J. S, which died intestate; and the Ordinary sequestred, and for that that it is not what Year he granted, it is not good, 9 H. 7. fol. 23.

Trespas of Goods, to plead, That in London is a Market every day but Sunday, and that he bought them on Friday, this is good, without shewing what Year; for the Year is not material, by *Choke*, 12 Ed. 4. fol. 1.

Affise, If the Tenant plead, That one Plaintiff died after the last continuance, he ought to shew what Day, which may appear, 18 Ed. 4. fol. 13. B.

Escheat, It is good, without counting what day he committed the Felony; for the day is not material, if it be one day or other, 40 Ed. 3. fol. 45.

Debt, and counts, That the eldest Son married K; and if he died before carnal knowledge, that the youngest should marry her, if the Ecclesiastical Law would permit, and counts, That the eldest married her, and died before carnal knowledge, and that he purchased a Dispensation, and required the youngest to marry her, and he refused; and though he do not shew what day, it is good, 12 H. 8. fol. 6.

Affise brought the same day, that the Disseisin was made, it shall be intended, that the Disseisin was first, and that the Writ was brought after the same day, 4 H. 6. fol. 7.

Rescous, and counts, that he distrained of Rent, and doth not shew the days of payment, and for that not good, 8 H. 4. fol. 2.

Obligation of two hundred Marks, and the Condition is to pay one hundred Marks at a day certain; and in Debt, the Defendant pleads, That he hath paid the hundred Mark, and for that that there is but a day, which may be according to the Condition, it is not good, 47 Edw. 3. fol. 13.

Where

Where a day is issuable, it shall be pleaded certain; as, one pleads a Lease made to him for years, he ought to shew when it was made, *Plowd. Com. fol. 24.*

Debt upon an Obligation, which is indorsed with a Condition, That if the Defendant renounce all the Administration, &c. and no Day is in the Condition when it shall be; and the Defendant pleads, That he hath renounced the Administration, and for that, that he doth not shew what Day, it is not good; for it may be after the Writ purchased, and then it is not good; 15 Edward 4. fol. 29.

Trespasse of Swans taken, the Defendant saith, That long time before the Trespass supposed, the property was to J. S, which gave them to him; the Plaintiff saith, That long time before J. S. had property, the property was in him, and for that, that he doth not shew what Day, it is not good, 31 H. 6 fol. 12.

Entry by the Lord Cromwell, of the Mannor of Ampthill, the Defendant pleads a Lease for years, and a Release; and it is not good, without shewing when the Lease was made, notwithstanding that it be shewed when that began, for that, that he ought to shew, that the Lease was made such a Day, and the Release after, 32 H. 6. fol. 8.

Debt upon an Obligation, the Defendant saith, It is indorsed upon condition, That if he infeoffe him, and he then pay to him twenty pounds, that the Obligation shall be void; and it is not expressed what day the payment ought to be made, and yet he ought to shew what day, for that is said to be forthwith after the Feoffment, for the words are, that then he shall pay, 37 H. 6. fol. 48. B.

Matter Uncertain.

See where it is uncertain in matter, and where not.

TRespass, the Defendant pleads, That the Plaintiff was indebted to him in a hundred Marks, and that he pawned the Goods till he were paid; and for that he doth not shew for what the Debt was due, nor whether he paid it or no, it is uncertain, and it is not good, 5 H. 7. fol. 1.

Trespasse,

Trespas, If the Defendant saith, That *A.* was seised of the Mannor of *D.*, whereof the place is parcel, he shall say, At what time the Trespas is parcel, otherwise it is not good, 23 H. 6. fol. 24. and 10 H. 7. fol. 28. the same.

One pleads a Fine levied to *B.*, of the Mannor of *D.*, and that the Tenant attorned to *B.*, and for that he doth not say, the Conisee was seised of the Mannor at the time of the Attornment; and also for that, that he doth not shew what Term the Fine was levied, it is not good, 10 H. 7. fol. 28.

Found by Office, That the Lord *Greystock*, Tenant of the King, died seised, and one came to traverse that, and said, That the Dean of *York* recovered in a Writ of Right against the Lord *Greystock*, and entred long before the Inquisition, &c. and gave to him in tail, and it is not good, 3 H. 7. fol. 2. for that it is not shewed, if the Entry was in the life of the Lord, or after his death.

Forcible Entry, where the Defendant saith, That *J. H.* and *H. Wood* enfeofed *Fines* and *Sackville*, and justifies as Servant to them; the Plaintiff saith, One *J. S.*, *J. Hook*, and *H. Wood* enfeofed him; and for that he doth not say, the aforesaid *J. Hook* and *H. Wood*, it is not good; 1 H. 7. fol. 19.

Where one pleads Bar, which comprehends but one matter; this shall be certain, as Arbitrement, he ought to shew where the Submission was made; and if that comprehend two matters, he need not to shew both certain, as it is said, Free-hoold of a stranger, and he as a Servant, and by his Command entred, it is good, without shewing where the Commandment was, 3 H. 7. fol. 12. B.

Quare Impedit, the Defendant saith, That *J. S.* granted the next avoidance to *A.*, which presented, and the Church is void: and the next avoidance was granted to *B.*, which died in restate, and the Ordinary sequestred, and for that he doth not shew the Name of the Ordinary, it is not good, 9 H. 7. fol. 23.

Trespas, The Defendant pleads, That it is the Free-hold of *John Shereewood*, and that he by his Commandment entred; and for that, that he doth not shew where the Command was, it is not good: Otherwise it is, if he had justified as Servant, and by his Commandment, 10 Ed. 4. fol. 10.

Trespas

Trespas upon the Statute of *Rich.* the Defendant saith, that his Predecessor, Master of the Hospital of Saint *Johns* of *Jerusalem*, was seised, and died, and that he was Master, and entred after his death, and might be Master by Election, Collation, or Presentment, and for that it is not good, 4 H. 6. fol. 27.

Debt upon Obligation, the Defendant saith, that it is endorsed upon condition to be at the award of J. S, who awarded, that he should discontinue his Action, which he had made, which he hath done; and for that it is not shewed what Action, nor how it is hanging, it is not good, 6 H. 6. fol. 9.

Maintenance, the Defendant justifies for that, that he was his Servant; and the Plaintiff saith, That he gave our Marks to maintain; and for that, that he doth not say, Hanging the Plea, it is not good; for it may be before, and it is no Maintenance, 3 Hen. 6. fol. 14.

Trespas, the Defendant pleads, That J. S. enfeofed the Plaintiff to the use of *Alice*, by force whereof the said *Alice* gave to him the Trees, and it is no plea, for he doth not shew if the Plaintiff were seised at the time of the gift to the use of *Alice*, 7 H. 9. fol. 3.

Trespas, if the Defendant justifie by Command of him to whose use, he ought to say, That at the time of the Commandment, they were seised to the use, &c. the same Law, if one plead a Lease and Release, he ought to say, That he was possessed at the time of the Release made, 10 H. 7. fol. 26. and 7 H. 7. fol. 3. the same.

That which is issuable, ought to be pleaded certainly.

One avows for that, that the Plaintiff held of him by a Knights Fee, and this is not good; for that he doth not shew by what Knights Fee, 12 H. 8. fol. 13.

3 H. 7. fol. 2. One traverses the Office found after the death of the Lord *Greylock*, the Kings Tenant, which was found, that he died seised; and he said, That the Dean of *York* recovered against the Lord G. in a Writ of Right, long before the finding of the Office; and it may be, he recovered against him long before the finding of the Office; and it may be after the death of the Lord *Greylock*, and for

for that it is not good, for it is uncertain. So if one plead that he entred, for that, that his Tenant aliened in Mortmain; he ought to shew, that he entred within the year, otherwise it is not good.

26 H. 8. fol. 2. Debt upon Obligation, endorsed with Condition, if he make an Estate, as it shall be devised by the Plaintiff; Defendant saith, That he hath made an Estate, and it is not good, without shewing what Estate.

1 H. 7. fol. 13. One comes to traverse an Out-lawry of Felony, and pleads, That he was in the Castle of Oxford at the time of the Out-lawry published; and for that he doth not shew in what County the Castle is, nor under whose Custody, it is uncertain, and not good; for these are issuable.

2 H. 7. fol. 6. Dower against the Heir, he saith, That he was ready to render Dower, if she would deliver to him the Writings concerning his Land, and for that he doth not shew what Writings, incertain, it is not good; for it is issuable.

Affirmative and Negative.

Issue shall be upon the Affirmative and Negative, and it shall not be answered by Arguments.

DEbt against the Administrators of J. S; the Defendant saith, That J. S. made him Executor: Judgment of the Writ, he shall say, Without that, that he died intestate, for this is alledged by the Plaintiff, 9 H. 4. fol. 7.

11 Hen. 4. fol. 88. Trespass of taking six Beasts, the Defendant justifies the taking of them by agreement; the Plaintiff saith, They were other six, and ought to traverse without that, that he took those six in the Negative.

11 H. 6. fol. 1. Writ upon the Statute of Labourers, and counts, that the Defendant was a Vagabond, and he required him to serve, and he refused; Defendant saith, That he was in the service of J. S, and shall say without that, that he was a Vagrant.

1 H. 6.

1 H.6. fol. 15. *Formedon* in Reverter, and counts of a Gift in Tail; the Defendant saith, That the Donor gave in Fee, and it is not good; but he shall say, Without that, that he gave in Tail.

10 H.6. f. 7. Account for the Heir, against a Woman Guardian in Socage; Defendant saith, That the Father of the Infant held of her in Knights Service, and died, and Defendant seised him; and he ought to say, Without that, that he held by Knights-Service.

14 H.8. fol. 4. The Avowant saith, That *W.* the tenth day of *February*, Year twenty five, granted his Interest to him, and avowed doing Damage; Plaintiff saith, That *W.* the first day of *Feb.* Year twenty five, granted his Interest to him; and he put in his Beasts, without that, that he granted that to the Avowant, before he granted that to him, and good.

38 H.6. f. 17. Action upon the Case, of that, that he hath Leet and Fines, and Amerciaments of the same; Defendant saith, True it is, That the Plaintiff hath Leet; but that he, the Defendant, hath Fines and Amerciaments, he ought to say, Without that, that the Plaintiff hath the Fines and Amerciaments.

18 H.6. f. 8. Debt upon an Obligation dated the twentieth of *April*, and first delivered the second of *May*; the Defendant pleads, Release the last day of *April*, and that the Obligation was delivered when it bore date; and for that, that he hath not traversed in the Negative, that is to say, Without that, that it was first delivered the second day of *May*, it is not good.

32 H.6. f. 4. Debt, and Counts of a Lease or a House, rendring twenty shilling; Defendant saith, That he lett the House and four Acres, rendring twenty shillings, and ought to traverse, otherwise it is but an Answer by Argument.

32 H.8. f. 8. Debt against Executors, Defendant saith, That the Testator died intestate, that the Administration was granted to him; he ought to say, Without that, that he is Executor, or Administred as Executor.

1 H.7. f. 13. Debt upon a simple Contract, Defendant saith, It was upon Condition, and shall say, Without that, that he sold in manner and form.

4 H. 7. f. 9. Partition, Defendant saith, That he was only seised, and shall say, without that, that he held as undivided, 6 H. 7. f. 3.

4 H. 6. f. 4. Debt against J. S. of D, Defendant saith, That he is dwelling at S, and shall say, and not at D, 19 H. 8. f. 1. the same.

7 E. 4. f. 16. *Scire facias* against a Parson for Arrearage, of an Annuity; Defendant saith, That before the writ purchased, he resigned to the Bishop of I, and so that remained in his hands; Judgment of the writ, and it is no plea; for it is but an answer by Argument: and for that he shall say, Without that, that he was Parson, day of the Writ purchased, or afterwards.

11 Ed. 4. f. 4. Action upon the Statute of Rich. by J. Freestone, Defendant saith, That the Master of the Colledge of Maidstone, and his fellow-Brethren lett, &c. Plaintiff saith, At the time of the making of the Lease, there were not any fellow-Brethren of the said Colledge; and this is but an Argument; and for that he shall say, Without that, that the Master and his fellow-Brethren lett.

14 H. 8. f. 29. Issue shall be upon Affirmative and Negative.

9 H. 7. fol. 13. Trespass, Defendant justifies for Fealty not made; the Plaintiff saith, It was not unmade, and good in the Negative.

Material.

Let us see what things are material in pleading Evidences and Verdict, and otherwise; and what not.

Action upon the Case in London, and counts, that he was possessed of Wine and Suff, and shews, that certain in such a Ship; and the Defendant at London assumed for ten pounds, that if the Ship and Goods did not come safe to London, and are put upon the Land there, that then he shall satisfy one hundred pounds to the Plaintiff, and counts that afterwards the Ship was robbed upon the Trade in the Sea, and for not satisfying, Action did accrue; and though that the Plaintiff do not shew where he was possessed, it is good: and though it appear upon the Evidence,

ence that the Bargain was made beyond Sea, and not in London, yet for that the place is not local, it is not material; and though they were robbed upon the Sea, the Action lies in London upon the *Assumpsit*, 34 H. 8. Tit. 107.

40 Ed. 3. fol. 2. *Præcipe* against H, Son of W. Osmond, the Tenant at the great Cape came before he saved his default, and saith, That his Father is named Edmond, and not Osmond, and shall have that plea before he save his default, and that is material, for mischief of the Warrant, 40 Ed. 3. f. 48.

41 Ed. 3. fol. 15. Ravishment of J, Heir to his Father, where he was Heir to his Father and Mother; for the Lands were given to the Father and Mother, and to the Heirs of their two Bodies, and the Mother survived, and yet it is good; for the Action is personal, and it is not material, if he be named Heir to one or other, 43 E. f. 4. the same.

3 H. 7. fol. 14. Where a Jury appears, and notwithstanding the Distrels; for the Jurors were not well returned, it is not material, and for that it shall not be assigned for Error.

21 H. 7. fol. 36. It seems in the case of a Lease of Common, except profits, that where a Lease is pleaded to be made one day; and it is found by Verdict to be made another day, the day is not material, and the party shall recover; and where the Trespass is alledged to be made one day, and it is found to be made another; it is not material, but the party shall recover.

33 H. 7. f. 11. In an Obligation, one is named of D, he is not estopped to say, that he is dwelling at S, and not at D, for it is a recital not material, 34 H. 6. fol. 21. Debt against Wikes at Bristol.

38 H. 6. fol. 9. The Array was challenged, for that it was made at the denomination of the party, by one J. S, the Sheriffs Clerk; and given in Evidence, That it was made at the denomination by the Bayliff of the Franchise, and that is good Evidence, for the Substance and Effect is, If it were made favourably or not; and the other is not material.

32 H. 6. fol. 3. The Original in Debt is two and forty pounds, and there is a *Superfedeas* sued upon that, for that the

the Defendant is the Clerk of Chancery, and the *Superfedeas* doth mention four and forty pound, and yet for that he is a Clerk of the Chancery, hath the priviledge allowed, and the other is not material.

36 H. 6. f. 2. Debt upon a Recognizance, the Defendant pleads No such Record, and it is certified Recognizance upon Condition under, and the Plaintiff shall recover; otherwise it is, if it were certified upon Condition therein.

42 E. 3. f. 3. Covenant by one as Heir, where a Covenant was made to his Father and his Heirs, to sing Divine Service within his Mannor, he need not be named Heir; whether he be named Heir or not, it is not material; for if he be Tenant of the Land, it shall not abate for that, for he that hath the Mannor shall have this Covenant, for the thing is to be done upon the Land, 44 Ed. 3. f. 38.

44 E. 3. f. 45. Assise of Tenements in *Bolham*, Defendant pleads Recovery of the same Lands put in View in *Elston*; and for that, that the Town is not material in Assise, (for he shall recover by View of the Jurors) is good.

6 H. 7. fol. 6. Appeal against *J. Hasset*, Canon of the Monastery of *w*; the Defendant saith, No such *J. Hasset*, Canon of the Monastery of *w*, it is not good; for if he be Canon or not, it is not material; but no such *J. Hasset* as is supposed by the Writ, 10 H. 7. fol. 7.

3 E. 2. tit. *Escheat* 8. In *Escheat*, the Plaintiff counts, that his Tenant committed Felony, for which he was attainted; and the count was challenged, for that he doth not say, For what Felony, and yet it is good; for it is not material, for what Felony it was.

7 H. 4. f. 1. Debt by a Woman, Defendant pleads, That she is out-lawed at the Suit of *J. S.*, and the Plaintiff pleads No such Record, and she was out-lawed at the Suit of *N. S.*, and she shall not be answered; for it is not material at whose Suit she was out-lawed.

4 Ed. 4. fol. 29. Obligation is *W. N.* to be bound to *J. S.*, and is to be paid to *W. N.*, where it should be *J. S.*; and this to be paid is not material: for the Obligation is good, without to be paid, and may count *Solvendum*, *J. S.*, and it is good.

7 E. 4. 5. *Homine Replegiando*, by an Abbess, they were at Issue, and it is a principal challenge, that one of the Jury was Cousin to a Nun of the Abbess, and it shall be tryed if he were Cousin or not, and it is not material how he is Cousin.

9 Ed. 4. fol. 4. A man is bound in an Obligation; the condition of that is, If he go to the Church and marry his Daughter, &c. and he rides and marries her, that sufficeth, and the other not material; for the marriage is the substance, and not going or riding to do it.

10 Ed. 4. fol. 13. Detinue against *J. Curson*, and the Writ was, Command *J. Curson*, son and Heir of *J. Curson*, where in truth he was Son of *William Curson*, and the Plaintiff counts of delivery of Goods, and for that it is not material.

12 Ed. 4. f. 1. Trespass of goods taken, the Defendant saith, that in *London* there is Market every day but Sunday, and that J. S. sold them to him upon a Friday, and though he do not shew what year, it is good; for it is not material.

22 Ed. 4. tit. 128. Shewing of Deeds, Trespass by administrator, counts of goods taken out of his own possession, he need not shew Letters of Administration, for that it is of his own possession, and is not material.

38 Ed. tit. 14. Detinue of Writings, by J. Son of T. W. it is no Plea that the Plaintiff is a Bastard; for he demands but Chattels, whereof he was in possession, and it is not material.

15 H. 7. f. 11. Trespass, where the Defendant conveys to him title by divers Feoffments of strangers, the Plaintiff may traverse any, which he will; but if he convey any title from the Plaintiff himself, that is more material, and traversable.

3 Ed. 4. fol. 19. Trespass, the Defendant saith, That J. S. gave in tail to his Ancestor, which dyed seised, and this descended to him; the Plaintiff saith, that he was seised in Fee in right of his Church, till the Defendant outed him, and ought to traverse without that, that J. S. gave in tail, &c. For this is most material, 15 Ed. 4. fol. 2. the same.

26 H. 8. f. 1. The King recites that for good service that he had done in the Wars, he grants; where he was never in the Wars, it is a good grant; for the recitall is matter in Deed not material.

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9 H. 7.

9 H.7. fol. 7. If the King make a Denizon, and recite that where he was born in *France*, where indeed he was born in *Spain*, this grant and making him Denizon, is a good grant, and the recital is not material.

3 H.6. fol. 9. Where Proceſs is miſcontinued; and Judgment given by default, this Judgment upon miſcontinuance is Error, and may be aſſigned for Error; but where it is miſcontinuance of Proceſs, and the party appear and pleads, and Judgment upon Verdict is given, this cannot be aſſigned for Error. See 3 H.7. f. 8.

1 H.7. f. 12. Error was aſſigned, for that it was contained in the Record, that in bote Court the Entry was, that the Court was held upon Tuesday, that is, the third day of March, where Monday was the third day of March, and this was adjudged Error, and the (*Videli et, &c.*) material.

4 H.7. f. 6. Where one is named Executor, where that Name Executor is not material; the Writ ſhall not abate.

17 Ed. 4. f. 2. Where the Defendant in Treſpaſs pleads that the Plaintiff bargained and ſold to him ten Acres of Corn, though he doth not ſay ten Acres ſown with Corn, it is not material, for it is uſually ſo called, and a good Plea.

1 H.7. f. 21. A certain *Memorandum* was entred, that is to ſay, *Memorandum* that *Simon Wiſeman* came this 21 day of *November*, the Term of *S. Michael*.

2 H.7. f. 11. If Proceſs be miſcontinued, and the party appear and pleads to the Iſſue, and Judgment is given, there the miſcontinuance is not material, and is no Error.

9 Ed. 4. f. 42. Treſpaſs of a Bag taken with money, the Defendant ſaith, that the Plaintiff was indebted to him in a certain Sum, and delivered that unto him for diſcharge, and is good, though he do not ſhew for what cauſe he was indebted, for this is not traversable, and for that it is not material.

Manner and Form:

Manner and Form, where it is material, and where not.

Maintenance, the Defendant justifies, for that, that he is Neighbour, and informed him of a man learned in the Law; the Plaintiff saith, that he gave money; the Defendant saith, that he did not maintain in manner and form, and it is no plea without answering to the special matter, 13 Ed. 4. 14.

Trespass, the Defendant saith, that the Plaintiff is Villain regardant to the Mannor of D. the Plaintiff saith he is free, and not Villain in manner and Form; and manner and Form is not material; but if he be a Villain, or not, 13 Ed. 4. f. 4.

Debt of the sale of a Horse for forty shillings, (where the Bargain was for two Horses) the Defendant pleads; that he oweth him nothing in Manner and Form; the Jury ought to find for the Defendant, for that, that the Bargain was for two Horses 40 s. and Manner and Form there is material, and parcel of their Charge; and so it is in every Case, where the Action varies from the Bargain, 21 Ed. f. 12.

Debt upon a sale simply, the Defendant saith, that the Sale was upon Condition, without that, that the Plaintiff sold that in Manner and Form, and is good, 1 H. 7. fol. 13.

Trespass, the Defendant justifies, for that the Plaintiff held of him by Homage, Fealty, Suit of Court, and ten shillings four pence; the Plaintiff saith, that he held by Fealty, and ten shillings, without that, that he held in Manner and Form, and found by Verdict that he held by ten shillings four pence, and not by Homage; and the Plaintiff had Judgment for that, that part is found against the Defendant, and manner and form is not material, 31 H. 8. f. 12. 9 H. 7. f. 13.

Entry in *causa Proviso*, and counts of alienation in Fee, the Defendant saith, that he did not alien in mannor and form as the Plaintiff hath counted, and found that he aliened in tail, the Demandant shall recover; for
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[Manner and Form] are but words of Form here; but whether he alliened or not is the substance, *Littleton, fol. 113.*

Lord and Tenant, and the Tenant brings Trespass against his Lord, and justifies for that, that he held of him by fealty and Rent; and for the Rent behind, that he took his Beasts, and demands Judgment of the [by force of Arms] against him; the Plaintiff saith that he doth not hold of him in Manner and Form; and though it be found that he holds by Fealty only, yet the Writ shall abate, for [Manner and Form] it is not material, *Littleton, fol. 113.*

Trespass of Battery, or of Goods taken, the Defendant pleads Not Guilty (in Manner and Form) as the Plaintiff supposeth, and is found Not Guilty in another Town, or at another day; yet the Plaintiff shall recover, *Litt. f. 114.*

Action upon the Case by a Husband alone, upon an Assumpsit to him by *Tatum*, the Defendant saith, he did not assume in Manner and Form, and the Plaintiff gives in Evidence of an Assumpsit made to his Wife, and his agreement afterwards, and it is good, and Manner and Form is not Materiall, 27 H. 8. *fol. 27.*

Cessavit, that the Defendant held divers Lands by entire Service, he may plead that he held not in Manner and Form; and give in Evidence that he held by several Service, and it is good, 10 H. 7. f. 24.

An Array of a pannel was challenged; for that it was made by the Sheriff Cousin to the Plaintiff, and shew how he is Cousin; the other saith, he is not Cousin (Manner and Form, as, &c.) and he is found Cousin, but this is found to be in another Mannor, and is good, for (Manner and Form) is not material, 19 H. 7. *fol. 7.*

Affise, the Tenant pleads a Feoffment of J. S. by Deed, the Plaintiff entitles him, without that, that J. S. feoffed him in Manner and Form, and could not give in Evidence a Feoffment without Deed, and traverse that with (Manner and Form) is good to avoid a Negative pregnant, and in *Sine assensu Capituli*, the Defendant shall not say, that he did not allien without the consent

Negative Pregnant,

consent of the Chapter, but that he did not allin in Manner and Form to avoid a pregnant Negative, 22 Ed. 4. fol. 4.

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Negative Pregnant,

where a Negative Pregnant may be, and where not.

VAfter, the Defendant saith, that he did not let to him for years, it is no plea, for it is a pregnant Negative, but he shall say that he did not let at all, 43 Ed. 3. f. 12.

Action upon the Statute of *Richard*, he did not enter against the Form of the Statute, is good, though it be a Pregnant Negative, for that, that it traverseth the point of the Writ, 31 H. 6. f. 12.

Consimili Casu, Issue was, If he aliened in Fee, or not aliened in Fee, which is a pregnant Negative, and allowed, the reason is plain, 38 H. 6. f. 3.

Lord and Tenant, the Tenant pleads a Feoffment made before the Statute of (*quia emptores terrarum*) after the time of memory; and the Lord said, that he did not give after the time of memory, and is good, notwithstanding it be a Pregnant Negative, 39 H. 6. f. 8.

Debt upon Obligation, the Condition to repair a House, and saith, that A. disturbed him by the Plaintiff's command; the Plaintiff saith, that he did not disturb him by his commandment, and it is a pregnant Negative, and double; and for that saith, that he did not command him, and took the other by Protestation, 9 H. 6. f. 44.

Debt upon Obligation, the Defendant saith, it is indorsed upon condition, to be at the Arbitrament of B. for that it be delivered to the parties before such a day: the Defendant saith, that the Arbitrators made no such award, and delivered to the parties, and it is good, notwithstanding that it be a pregnant Negative, for that it is condition, and is the whole condition, 10 Edw. 4. f. 6.

Debt upon the Statute against a Vicar for taking Farms he had not, nor held not, against the form of the Statute, is good, though it be a pregnant Negative; for that it is to the point of the Statute, 27 H. 8. f. 29.

Action upon the Case against a common Inholder of his Goods taken, where they were laid; the Defendant saith, that they were not taken in default of him, nor of his servants, and it is not good; for it is a Pregnant Negative; the same Law is, where the Defendant saith, that he delivered to the Plaintiff the Key of his Chamber, and he carried A. and B. with him, which carried out the Goods, the Plaintiff saith, that A. and B. which he brought in with him did not carry out his goods, and it is not good; for it is a Pregnant Negative, 21 H. 6. f. 22.

Waste of ten Oakes, the Defendant saith, that the Plaintiff gave them to J. S. and commanded the Defendant to cut them, and to give them to J. S. which he did, the Plaintiff saith, he did not cut them by his Commandment, and it is not good; for it is a Pregnant Negative, and for that he saith, that he did not command, 21 H. 6. f. 49.

Action upon the Case, of his House burnt in default of good keeping the fire of the Defendant; the Defendant saith, that the house was not burnt in default of his good keeping of his fire, in manner and form; and it is a Pregnant Negative, and was pleaded in arrest of Judgment; for that, that in this are comprised two Sentences, one, that the House was not burnt; the other, that it was not in default of the Defendant, 28 H. 6. f. 8.

Obligation.

Here I intend to shew to you how the Condition of Obligations ought to be pleaded, and performed.

WHere one pleads Conditions performed, and his Plea is in the Affirmative, he ought to plead in certain, as where the Condition is to discharge the Obligee,

gee, it is no Plea to say, That he hath discharged him, but he ought to plead how he hath discharged certainly, 5 H. 7. f. 8. & 6 H. 7. f. 5.

But if the Condition be to save him without damage, to plead in the Negative, [he was not damnified] is good; 7 H. 4. f. 13. 38 H. 6. f. 14. & 10 H. 7. 13.

By *Hussey*, it Condition be to save the Plaintiff harmless, to plead [he was not damnified] is good: but if the condition be to discharge or acquit him, he ought to plead how specially he hath acquitted and discharged him, 22 Ed. 4. f. 35 H. 6. f. 13. & 40 Ed. 3. 20.

If the Condition be, That if the Defendant acquit the Plaintiff against J. S. and he pleads, That J. S. released to the Plaintiff at his request, and this is a good Acquittal, 1 H. 7. f. 30.

Condition was to discharge a Sheriff, it was held clear, That the Defendant shall say generally, that he hath discharged him, without shewing how; for he cannot shew special discharge, where there was no charge, I suppose this was, for that it was infinite, 5 Ed. 4. f. 10. & 21 H. 7. fol. 30.

Condition, That if he keep J. S. discharged of all Escapes, of all Felons in such a prison, the Defendant saith, There were but two prisoners, that is, J. S. and R. R. and that he was not damnified; and a good Plea.

If the Condition be, to gather all the green Wax of the County, the Defendant may plead generally, that he gathered all, without shewing specially what that is, for that, that is infinite, 2 H. 7. f. 15.

If condition be, That if the Defendant serve the Plaintiff, without absence for seven years, (special License excepted) the Defendant may plead that he hath served the Plaintiff this seven years, and not absented himself (special License excepted) and it is good, for it may be he hath licensed him divers times, and he need not shew all, 6 Ed. 4. fol. 2.

If the condition be, That if the Defendant find sufficient Meat, Drink, and Apparell to one, till he be of the age of twenty four years, it is a good Plea to say, That he hath found him Meat, Drink, and Apparel sufficient at D. for all the time aforesaid, without shewing in special what Meat, and what apparell, and the Plaintiff takes

Issue, that he did not find to him sufficient apparel: and took not Issue upon all for doubleness, 12 H.7. f.14.

If the Condition be, That if the Defendant shall not prove, that J.S. was not Presented and Instituted to the Church of D. that then, &c. the Defendant may say that J. S. was not instituted; and it seems good, for the condition is negative, and therefore it sufficeth to say as above in the negative. The same Law is, if the Condition were, That if the Defendant prove, that he oweth nothing to the Plaintiff, it sufficeth to say he owes nothing. The same Law is, if the Condition be, That if I prove my Wife not guilty of such a Trespass, it sufficeth to say that she is not guilty, 15 Ed.4. f.25.

If the Condition were, That if he prove within one year, that it was the Will of J. S. to say, That J.S. made this Will, which he brought to the Plaintiff within one year written, is not good. But by 3. Justices, Proof of that by two witnesses to plead that, is good, though it be not by Jury, 15 Ed.4. f.11.

If the Condition be, That if he do not enter, and claim the House, the Defendant may plead that he did not enter nor claim that, and the Plaintiff shall say that he claimed, and shew the manner of that, 4 H.7. f.13.

Condition, if the Defendant make an Estate to the Plaintiff before P. as it shall be devised by the Council of the Plaintiff: the Defendant may plead, That the Council gave no advise, or no advise was given by Counsel, and good in the negative; and the Plaintiff then in the affirmative cannot say, that the Council did give advice, but he ought to shew certainly who was of his Council, and say certainly what advice was given, 6 H.7.3. & 11 H.7.23. accordingly.

Condition to pay all the Arrearages of all the Lands which he holds of the Plaintiff in D. it is no Plea, That he hath paid all generally; but he ought to shew specially to what sum, for that, that it is in the Affirmative, 20 H.6. f.33.

Condition to pay a lesser sum at the Feast of P. if the Defendant plead that he hath paid it, he ought to plead what day he paid it, 46 Ed.3.29. & 47 Ed.3. f.13.

Condition, That if the Defendant carry all the Thorns out of the Land let to him by the Plaintiff, the Defendant

may

may plead generally, That he hath carried all, for that, that it lies in notice of the Plaintiff; and the Plaintiff saith that so many were, which were not carried. But if the Condition were to enfeof the Plaintiff of all the Land, of which the Father of the Defendant died seised, or to give to him all the Money in his purse, there he ought to plead how much that was, for that, that it is in the Affirmative, and it lieth more in the knowledg of the Defendant, then in the Plaintiff, 12 H. 8. f. 7.

Debt by the Sheriff upon an Obligation, the Defendant saith, It was endorsed upon condition, and saith, He hath performed all the Condition, and it is a good Plea: And the Plaintiff saith, that he hath not accounted, and that is no Plea, but that such a thing came to his hands, for which he hath not accounted, that the Issue may be upon certainty, 2 R. 3. f. 17.

If the Condition be, to perform all the Covenants in an Indenture, the Defendant cannot plead that he hath performed all generally, but he ought to plead how specially he hath performed every Covenant, 26 H. 8. 6. 11 Ed. 4. 12. 13 H. 7. 18. & 6 Ed. 4. f. 1. But at this day it is used in the same case in Debt upon an Obligation endorsed to perform the Covenant in Indentures, that the Defendant recites the Indenture, and in the end he pleads, That he hath generally performed all the Covenants. And then the Plaintiff ought to shew breach in one, and upon that, Issue is taken.

If Condition be, to stand to the Award and Arbitrament of certain persons, it is no Plea for the Defendant to say, that he had no notice of any Award: but if it were (so that it be delivered to the parties in writing) the Defendant may plead, that no Award was delivered to him in writing, 1 H. 7. f. 5.

If Condition be, That if the Defendant shall stand to the Arbitrament of J. S. the Defendant may plead, that he hath not made any Award, and the Plaintiff shall say, That he hath made one, and shew what it is, 2 R. 3. f. 13.

Pleading by Name.

Reverſion is deviſed, by the name of all Lands and Tenements in D, and good, 34 H. 6. f. 6.

Leaſe is made of his Lands in *Bodehill*, and by ancient evidences, parcel of that is in D, he may plead his Leaſe, and give in Evidence, that all was let by the name of *Bodehill*, 20 Ed. 4. f. 19.

Where *Margery* and her Husband levied a Fine by the name of *Margaret*, and the Tenant may plead, That *Margaret* by the name of *Murgety*, acknowledged the Land by Fine. And alſo it is, that *Agnes* by the name of *Ara* levied a Fine, *Fitzh. f. 97. A.*

One cannot give Land by the name of the Office of the Forreſt, 10 H. 7. f. 17.

That J. S. by the name of J. D. in grant is good, and by the name *Hastings, Hastings*, 9 Ed. 4. f. 43.

Obligation was *J. Bofor*, and an acquaintance *J. of Egozon*, with a (r) and this was pleaded to be made by name, 14 H. 4. f. 30.

Presidents.

For that, that Presidents are to be followed, ſomething ſhall be ſaid touching them.

Saunders, Chief Baron, ſaith, The beſt Interpreter of the Law is Cuſtome, and for that, that the Presidents, and the Accounts of the Exchequer, prove, that from time to time, cuſtome and uſage hath been, That the Kings of this Realm have had the profits of ſuch Mines of baſe Metail containing Gold and Silver, without diſtinction, that the value of the Gold and Silver ſhall be greater or leſs, and upon the Presidents it was adjudged for the King againſt the Earl of *Northumberland*, in the information of Mines of Copper, mixt with Gold or Silver, *Plowden, fol. 336.*

It is ſaid in Aſſiſe, for that, that it is [hath ſhewed to us] where it ſhould be [hath complained to us] becauſe of

of the form and President, it shall abate; and so it is where it is [he hath d. seised him of four Acres] where it should be by the Presidents [of his Freehold] it shall abate, 11 H. 6. f. 25.

Venire facias: The Sheriff returns [that he hath made to come] 12; and yet to return 12. is not good; for the Presidents are twenty four, and so ought he to return twenty four, 2 H. 8. f. 8.

27 H. 8. fol. 16. One challenged the Array, and doth not verifie his Challenge, and he need not; for Presidents are so, and the Justices would not change the Presidents.

7 H. 6. fol. 30. In the Kings-Bench you shall not have a *Habeas Corpora juratorum*, but a *Venire facias* and *Distingas*.

39 H. 6. f. 32. *Mesne*, and counts, that he held of the *Mesne*, and that he ought to acquit him, and doth not count, that the Defendant held over; yet for that, that there were Presidents of that shewed, it was held good.

7 H. 7. f. 15. Assise 1. The Tenant pleads no wrong by Bailiff, and yet continuance was not between Plaintiff and Bailiff, but between Plaintiff and Tenant, and so were Presidents; and for that said to be good.

11 H. 7. f. 11. Where the Tenant pleads by Bailiff in Ass. he may after plead in proper person, matters in writing, or of Certificate, for Presidents are so.

16 H. 2. f. 8. *Cui in vita*, The Writ was, [Which he claims to hold to him and the heirs of his Body,] without shewing of whose gift. And the Opinion of the Court that it is good; but when the Register was shewed to be contrary, the Court changed their Opinion.

33 H. 6. fol. 22. *Præcipe*, at the great Cape returned, the Tenant saith, that he was not summoned, ready by the Country, but saith, that he shall be tried by Wager of Law, for so are ancient Presidents, which shall not be changed without special matter, as against Maior and Commonalty, which cannot wage their Law.

Forcible Entry of 8 H. 6. and counts of Entry with force, and keeping with force, where the Statute is in the disjunctive, but for that, that there are Presidents in this Mannor, it was allowed, 3 E. 4. f. 21.

Debt against Executor, for that, that the Writ was *Debet & Detinet*, where the President is *Detinet* only, it shall abate. The same Law, where it is *Præcipe quod solvat*, where it should be *Reddat*, it should abate, 22 E.4. f.21.

Debt upon the Statute of Farms against a Priest, the Writ shall not be *Quod Reddat* to the Plaintiff, the Sum so much, but it shall be *Quod reddat* as well to us, as to the Plaintiff; otherwise, the Writ shall abate, for it is not according to the Presidents, 27 H.8. f.23.

Two Infants alien in Fee, and one dies, the other shall have *Dum fuit infra Etatem*, of the whole, supposing that he himself aliened the whole, for that there is no other form of the Writ, 21 E. 3. f.50.

If Tenements be let to one man for term of half a year, or for a quarter of a year: in such case, if the Lessee make Waste, the Lessor shall have a Writ of Waste, and the Writ shall be [which he holds for term of years] for that there is no other form of the Writ, but he shall have a special count, *Littleton*, fol. 14. So the Writ of Waste is, that he made Waste, and yet may Count of many Wastes, for that, that there is no other form and President of a Writ, 4 H.6. f. 11.

Trespass, why with force and Arms his Goods and Chattels to the value, &c. where it is of dead things; and if he counts of Horses or Kine, where the Writ is, [Goods and Chattels,] it shall abate for that, that the form is otherwise; and if the Writ be of things living, he shall make mention of that in his Writ, that is to say, By force and arms, four Tenches, or four Pikes he took; or shall say, he took his beasts; and where it is a Horse, it shall be, [he took his Horse] or he took his Cow, 21 H. 6. f.39.

Trespass, if the Writ be, That he took his Goods, and Chattels, and count of ten pounds in Money, the Writ shall abate; for of Money the Writ is, That he took so many pence, and that is the Form, 39 Ed.3. f.23.

Trespass, by the Husband and Wife, the Writ was, He broke the Close of the Wife, and the Grass thereof, the said wifes, did eat down, and the Declaration was, whilest she was unmarried, and the Writ was awarded good, for the Register is accordingly, 21 H.6. f.30.

Trespass, by the Husband and Wife, why by Force and Arms he took his Goods and Chattels, and counts, that

that the Trespass was when she was unmarried, the Writ shall abate, because he may have a Writ of Form, that is, the Goods and Chattels of the said wife, and not his Goods and Chattels, 7 H.7. f.2.

Where Battery is made to a woman unmarried, which takes a Husband, they shall have an Action, that he struck D. his wife whilest she was unmarried, 22 Book of Ass. 87. But where an unmarried woman bears another, and after she takes a husband, the Writ shall be, That they both made the Battery, and this is the Form.

A woman disseises one, and after takes a Husband, the Writ against them shall be, that they disseised the Plaintiff, and not that the wife whilest she was unmarried, disseised him; but if the woman unmarried be disseised, and after takes a Husband, and they bring an Assise, it shall be, disseised her, whilest she was unmarried, 4 Ed.4. Br. Tit. False Latine, 1.

What is the same.

Where in a Trespass or Action of that nature, one justifies a wrong, where he ought to conclude, that it is the same; and where not.

Action upon the Case for threatening his Tenants at will, by which they left their holdings, the Defendant saith, That the Plaintiff disseised him, and that he said to him, If he would not depart, he would sue him as the Law would, which is the same threatening, and it is good, 9 H.7. f.7. & 16 Ed.4. f.7.

28 H.6. f.4. Defendant in Trespass justifies, for that, that he and his Ancestors Tenants of such a House and Land, have had a Way in the place where, &c. to the Market and Church of D. time out of mind, by which they used the Way, which is the said Trespass, &c.

21 H.6. f.5. False Imprisonment, the Defendant justifies, for that the Plaintiff was arrested by a Justice of Peace his Warrant, and carried to him being Goaler, which is the same Imprisonment.

False Imprisonment against an Abbot, which justifies, That he gave Counsel to J. S. being in fear of his life, to

gote a Justice of Peace for a Warrant of the Peace against the Plaintiff, and that by vertue of a Warrant of the Peace so had, the Plaintiff was arrested, which is the same Imprisonment, and this he cannot say, for this is not imprisonment by the Defendant, and for that the general Issue was entred, 12 H.7. f. 14.

False Imprisonment by a Woman; the Defendant saith, That she is carried to *Southwark* by her consent, which is the same imprisonment, upon which the Plaintiff counts, and it is no Plea; for imprisonment is against the Will of one, and that is not so, 14 H.6. f. 2.

Trespas of Assault, Battery, and Wounding, the Defendant saith, That he laid his hands upon the Plaintiff peaceably, and arrested the Plaintiff the same day and place by a Warrant, which is the same Assault, Battery, and wounding, and held it is no plea for the reason aforesaid, 21 H.7. f. 49.

Trespas of a Close broken such a day, the Defendant justifies, That the Plaintiff Licensed him the same day to enter, and need not say, That it is the same Trespas, for that it is the same day; but if he justifie at another day, or at another place; then he must say, that it is the same Trespas, 21 H.7. f. 39. The same Law is of goods carried out, if the Defendant justifie at the same day and place; and so in trespas of Battery, if the Defendant justifie, for that the same day and place the Plaintiff made assault on him; and the ill which he had, was of his own assault, he need not in these to say, it was the same trespas.

But in Trespas of Goods taken the first year, &c. the Defendant pleads all the Record, and saith, That one J.S. recovered, and that year the ninth, by vertue of a precept to make execution, he took them, which is the same taking upon which the Plaintiff, &c. and this is not good, for it cannot be the same, 12 H.6. f. 3. by *Cotesmore*.

False imprisonment, the Defendant justifies as Sheriff, That he arrested the Plaintiff by a *Capias*, and it is good, if he say that is the same trespas; and otherwise, it is not good, 22 Ed.4. Br. *False Imprisonment*, 29.

False Imprisonment, the Defendant saith, That he took the Plaintiff from *Jack Cade* and other Rebels, and delivered him to the Mayor for his safe-guard, which is the same

same Imprisonment, and that is good, for that was the Imprisonment, but justifiable, 35 H. 6. f. 53.

Conspiracy, the Defendant justifies, for that, that he is Steward, and that in a Leet was presented, that the Plaintiff is a Felon, and that he shewed his Rolls to the Justices at the Session, which commanded him to shew that to the Jurors, which inquired for the King, which he did, and saith, that that is the same; for by *Eaglefield*, when the Defendant pleads a conspiracy, which is justifiable, he ought to shew that it is the same Conspiracy, 27 H. 8. fol. 2.

Annuity is brought of six and twenty shillings and eight pence, the Defendant saith, That if he held of the Plaintiff by six and twenty and eight pence of Rent, which is the same Rent, and it is not good, for it cannot be the same, 33 H. 6. f. 38.

Debt upon Obligation, the Defendant saith, It was made by threats; the Plaintiff saith, That he let the Land to the Defendant, rendring Rent, and saith, If he would not seal the Obligation to him for the Rent behind, he would sue him at the Common Law, which is to the same threatening, and it is no good Plea, for this is lawful, and not a threatening, 16 Ed. 4. f. 7. *Br. Tit. Duress* 23.

Maintenance, the Defendant saith, That he carried the money of him, which the Plaintiff supposed he maintained, to his Council, which is the same maintenance, and this is no Plea, for this is no Maintenance, 34 H. 6. fol. 19.

Replication.

*where a faulty Barr is made good by Replication;
and where not.*

TRESPASS, the Defendant pleads an agreement to pay Money, and to make Windows, and said, That he paid the Moneys, and nothing of the Windows; and the Plaintiff replied and said, No such agreement, and yet the Plaintiff in barr pleaded an agreement, and that not executed,

executed, is not made good by the Replication; for the barr is not good, to no intent, and the Replication cannot make that good, 6 H.7. f.10.

But count where a Bar may be made good by a Plea of the other party, where the Count or the Barr is uncertain, as where the Plaintiff counts of an Obligation in Debt, and doth not count where it was made; and the Defendant pleads release, and acknowledges it, and the Confessor where the place should be in, is now outed, and need not to have that; The same Law in Trespass, where a man pleads Arbitrament, and doth not shew the place where the submission was, that is not good: but if the Plaintiff reply, and saith, That he discharged the Arbitrators before the Award, now it is good, for that which was ill, is now confessed, 10 H.7. f.24. & 20 H.7. f.12.

By *Hussy*, If one plead Joynt-Tenancy, day of the Writ purchased, it is not good, for that he might be sole Tenant after; if the Demandant saith, Sole Tenant, and doth not demur, it is made good by Replication, 5 H.7. f.14. The same Law, if in Debt against Executors, they plead, Nothing in their hands, day of the Writ purchased; and do not say, [nor ever after,] the Plea is not good: But if the Plaintiff reply, and say, that they have Assets, and that is found, he shall have Judgment, 3 H.7. f.8. accordingly.

False Imprisonment the tenth day of May, the Defendant saith, That the Plaintiff made an assault in the Court before the Steward, and for his disturbance of the Peace in the Court, he was committed to Ward; the Plaintiff saith, of his own Wrong, without such cause; and now though the Defendant hath not shewed what day the Court was, yet by the Replication it is made good, for now the day is not material, 21 H.2. f.32.

If double plea be pleaded, and the Plaintiff replies, and takes issue of one matter, and that is found, he cannot after plead in Arrest of Judgment, for by the Replication it is made good; 18 E.4. f.17.

Debt upon an Obligation, the Defendant pleads a Deserance, which is, that if the Defendant deliver to the Plaintiff in London certain Clothes of Kersey of as good Stuff, and of as good making as before these times have been made

made in the Town of D. in the County of *Darby*, that then the Obligation should be void, and saith, That he hath delivered to the Plaintiff in *London*, the Clothes of as good, &c. according to the condition, and this Plea is not good, for that, that it cannot be tried; for those of *London* cannot try if they were as good, &c. But the Plaintiff replied, and said, That the Defendant did not deliver to us any manner of Cloth in *London* ready, &c. and now by the Replication it is good, 22 E. 4. f. 2.

Debt, the Plaintiff counts upon a Lease for Term of years, and doth not shew where it was made, and the Defendant traverses the Lease, and the Plaintiff replies, and joyns issue, and after acknowledges the Action, and after pleads in arrest of Judgment, for that the Plaintiff hath not declared in what place the Lease was made, and yet he had Judgment; for when the Defendant hath in Bar gainsaid the Lease, he hath admitted the Count good, 18 Ed. 4. f. 17. And in Debt, if I plead the Release of the Plaintiff, and do not shew where it was made, and the Plaintiff replies and pleads not his Deed, the Plea of the Defendant is made good by his Replication, *Br. Title Repleader*, 38.

Annuity for Counsel given, and to be given, and Counts, That he hath given to him Counsel, in doing his businesses; and though he do not shew in what businesses, it is good: for if the Defendant saith, That he doth not give to him counsel against the Plaintiff in his Replication, he may shew in what things he gave counsel, and so the Replication hath made all good, and the Count was good generally, 39 H. 6. f. 33.

By *Vavisor*, Replication may make an ill Barr good, as I plead in Bar grant of Reversion, and omit attornment; If the Plaintiff reply, and confesse and avoid the Grant by special matter, then is the Bar good, 11 H. 7. 24.

By *Read*, in debt against one as Executor, which pleads nothing in their hands day of the Writ purchased, which is no Plea, for that, that he may have Assets afterward. But if the Plaintiff reply, that he hath Assets, and that found by Verdict, is good, 6 H. 7. f. 6. The same Law, if the Tenant in *Præcipe* plead non-tenure, day of the Writ, and the Plaintiff replies, that he was Tenant.

And now though by the Statute of 32 H. 8. chap. 30. It was enacted, That if any issue be tryed by the Oath of 12. in any of the Kings Courts of Record, that Judgment shall be given; any mispleading nor having colour, insufficient pleading, or Jeofail, nor warrant of Attorney put in, any miscontinuance, or discontinuance, misjoyning of Issue, or other default, or negligence of parties, their Counsellors or Attorneys, had or made to the contrary notwithstanding; and that the Judgment shall be in force, and shall not be reversed by Writ of Errour. And yet at this day one may plead in arrest of a Jury, and say, that you ought not to take this inquest, notwithstanding this Statute.

Conspiracy against two, one in the year 42 Edw. 3. hath pleaded to the Jury, and the other, 43 Edw. 3. pleads in Abatement; and now in 48 Ed. 3. the first takes *Nisi Prius*, and cannot have it before the Court be advised, if the Writ be good; for though that the other hath accepted the Writ good; yet if the Writ doth not lie in the case, the Writ shall abate against one and the other, by 43 Ed. 3. fol. 10. The same Law notwithstanding the Statute of 32 H. 8. aforesaid.

Debr against two Executors, one comes at the *Pluries*, and pleads, Fully administred; and after, comes the other by *Exigent*, and pleads to the Writ, that 3. others are Executors, which have administred, not named, Judgment of the Writ, and for that the Plaintiff hath replied, That the two alone are Executors, the Defendant for that may plead this matter in arrest of taking of the first Inquest upon the first issue; for by the Replication to the second Plea; he hath waved the advantage of the first Plea, where it was sufficient for all, by reason of the Statute, which wills, that he that first shall come by distress, shall answer, 7 H. 4. f. 12. *Brook, Executor* 46. and this is good at this day, notwithstanding the Statute aforesaid of Jeofails.

Several

Several Tenancy.

Scire facias, of a Fine of Rent-Service against many Tenants, one saith, That he came to a House, parcell of the Tenements, whereout the Rent in demand is supposed to be issuing by it self, without that, that the other have any thing, Judgment of the Writ, and that another holds four acres parcel of the Land, whereout the Rent in demand is supposed to be issuing by it self, and it is good, 5 H.5.f.4. Otherwise it is, of a Rent-charge.

Scire facias against J.S. J.D. and three others; J.S. saith, That he and one of the three held parcel joyntly, and that the Ancestor was dead, day of the Writ purchased, Judgment of the Writ; and J. D. saith, he held another parcel in Fealty; Judgment of the Writ, and the Writ brought against them in common was abated, 38 Ed. 3. f. 20. And note also, several Tenancy of parcel shall abate all the Writ, 19 Ed. 3. Tit. 18. 27 H.8. f. the last, & 20 E.4. f. 8.

Præcipe against two, of sixteen Acres of Land, one takes the Tenancy of twelve Acres, without that, that the other hath, &c. and vouches, and the other takes the Tenancy of the residue, without that, that the Plaintiff ought to maintain his Writ, 41 E.3. f. 20. the other severall Tenancy shall abate the Writ, 28 Book of Ass. 25. that he which pleads several Tenancy, may vouch or plead over in Bar, and not conclude to the Writ. See Br. Tit. Breife 141. & 13 H.6. f. 26.

Affise, several Tenancy is no Plea; and the same Law in other actions where no Land is demanded in certain, 24 H.8. Tit. 18. But see 21 H.6. f. 57. and 30 Book of Ass. 24.

Dower, several Tenancy shall abate the Writ, 39 Ed. 3. Tit. Brook 30. otherwise it is, in Affise, 15 E.2. Tit. 1. & 14 E.3. Tit. Breife, 276.

It seems, that non-Tenure, and several Tenancy in *Nuper obiit*, against 3. is no Plea, 7 H.6.8. Sec, 13 Ed. 1. Tit. 3. Fitzh. f. 197. D. F.

Quid juris clamit, against three, which plead several Tenancy; and it was said, That it behooveth, that the Plaintiff should maintain his Writ, so he did, 14 Ed. 3. tit. 9.

Mortdancester against three, which say, that they are Tenants in severalty, Judgment of the Writ. And for that, that the Assise found, that one of them was Tenant in Severalty, the Writ abated, 8 E. 2. tit. 2.

In *p r que Servitia*, Several Tenancy is no Plea, 11 E. 3. tit. 15. and 32 E. 3. tit. 7.

Scire facias against two, One makes default, and the other pleads several Tenancy in abatement, and cannot, for that Seisin is to be awarded of half, 42 Ed. 3. fol. 8. See *Book of Assises* the 16.

Præcipe against two, One takes the Tenancy upon him, without that, that the other hath any thing, and the other saith nothing, the Plaintiff need not maintain his Writ, 37 H. 6. f. 16. & 18.

Entry in the *quibus* against Two, one pleads severall Tenancy, and also over in Barr, and the other pleads in the same manner, and the Plaintiff need not to answer to the Barr, be it good or not; but he ought to maintain his Writ, for one ought not to recover upon an ill Writ, 12 H. 6. f. 4.

He which pleads several Tenancy, without that, that the other named with him hath any thing, he need not conclude to the Writ, but vouch or plead in Barr; but the Demandant shall not answer to the Bar, nor to the Voucher, but ought to maintain his Writ, that they are Tenants, as the Writ supposes, 19 A. 6. f. 14.

T R A V E R S E.

where he ought not to Traverse, and where he ought; then what thing in the Plea shall be traversed.

BY *Hussay*, in *Præcipe*, if the Tenant plead, That the Land is ancient Demesne, and pleadable by a small Writ of Right close; and he need not take Traverse, that it is not Frank Fee; for that, that the Writ is but a Supposall, 9 H. 7. fol. 13. And in *Mortdancester*, Tenant pleads
Joynr.

Joyn-tenancy with the Father of the Demandant ; and it is good with Traverse, that he is sole Tenant, for that, that this is but a supposal : and by *Tremaile, fol. 14.* Of his Horse taken, the Defendant saith, That J. S. sold the Horse to him in an open Market, or that the Horse was waived, or Wreck, or such like ; there he need not Traverse, for that, that this is matter in Law ; and if he takes Traverse, he waives that matter in Law, *5 H. 7. f. 6.* accordingly, *2 Ed. 4. f. 4.* and *Plowd. 23. A.* By *Hussy and Fairfax*, where a matter in Deed is alledged, by way of Bar, or in Covenant, then this ought to be traversed in every case, unless it be for the mischief of Tryal, as speciall Bastardy is alledged without Traverse, it is good for mischief of Tryal, *6 H. 7. f. 5.* otherwise it is of matter of supposal ; and in Assise, the Tenant pleads a Feoffment of J. S. ; the Plaintiff saith, That this was upon Condition, and that J. S. entred for the Condition broken, and infeoffed him, and so he confesses and avoids, and for that he ought not to traverse ; and in *Præcipe quod reddat* against J. S. he shall say, That he held joynly with J. D. not named in the Writ, and take no Traverse, for that, that it is but a supposal ; and in Trespas of Goods taken, the Defendant saith, They were the Goods of J. S. which made him and the Plaintiff his Executors ; the Plaintiff saith, That the Testator devised, that after his Debts and Legacies paid, that he should have all the Remainder, and saith, That such and such are paid, which are all ; the Defendant saith, That such a Legacy was not paid, without that, that the Plaintiff alledgeith were all, and he ought to traverse, for that, that is a matter in deed.

Trespas of Trees cut, the Defendant pleads, That J. S. was seised of an Acre, whereof the Trespas is parcell in Fee, and lett to him at Will, and that he by his Commandment cut the said Trees, and demands Judgment if Action ; and this is no Plea without Traverse, that is, without that, that it is the Soil of the Plaintiff, *5 H. 5. fol. 8.*

Trespas, The Defendant conveys, that his Father was seised in Fee, and that descended to him ; the Plaintiff pleads, That J. D. infeoffed him, and ought to traverse, without that, that the Father of the Defendant was seised in Fee, *27 H. 8. f. 9.*

Trespas, the Defendant pleads, That the place where, &c. was his Free-hold ; the Plaintiff saith, That J. S. was seised in Fee, and lett to him at Will, and that the Defendant outed him, and disseised J. S. and that the Plaintiff at the command of J. S. re-entred, and the Trespas mean between the re-entry and the disseisin ; and the Defendant maintains his Barr, and he ought to traverse the Lease, for that is most material, 11 *Ed. 4. f. 3.*

Trespas, the most material matter shall be traversed ; and for that, if a gift in Tail, and dying seised, be pleaded in Barr in Trespas, the Gift is traversable, and not the dying seised ; so in Trespas, if the Defendant saith, That a stranger was seised, and infeoffed the Father of the Defendant, and that his Father died seised, and that the Defendant entred as Son and Heir, nothing is traversable ; but the last dying seised, for that is the effect of his Barr, by *Neale, 15 Ed. 4. fol. 2.*

Trespas, the Defendant saith, That I. was seised, and protesting died seised, and conveyed the discent to the Defendant ; the Plaintiff saith, That M. infeoffed him, by force of which he was seised, till the Defendant made a Trespas ; and the Defendant saith, as above, without that, that the Plaintiff was seised at the time of the Trespas, but it is not good ; for he ought to traverse, and to say, Without that, that M. infeoffed him ; for that is the effect of the replication, 19 *H. 8. f. 7.*

Trespas, the Defendant pleads his Free-hold ; the Plaintiff saith, That the Defendant lett to A. for years, which granted his Estate to B, which granted to him ; the Defendant maintained his Barr, without that, that B. granted to the Plaintiff, and is not good ; for he conveys from the Defendant himself, and that is traversable, and saith, without that, that the Defendant lett to A : But where an Estate is conveyed all by strangers, he may traverse one conveyance or other, 10 *H. 7. fol. 8.*

Assise, the Defendant pleads Barr, and the Plaintiff makes title by a gift in Tail to his Father, and dying seised of his Father, the gift is traversable : but if it be by feoffment of J. S. to his Father, and dying seised of his Father, the dying seised is traversable, 9 *H. 6. 22.* and 10 *H. 4. 1.* accordingly.

Mesne, and counts, that he held a hundred Acres by Fealty

Fealty of the Defendant, and he over, &c. The Defendant saith, That the Plaintiff held of him by Homage and Fealty, and ought to traverse the acquittal, and not the tenure, 2 H.5. f.2.

Trespas of Close broken, the Defendant saith, That J. S. and J. D. were seised in Fee, that J.S. enfeofed the Ancestor of the Plaintiff, and J. D. enfeofed the Defendant, and so they hold as undivided; and the Plaintiff saith, That his Ancestor died sole seised of all, and this descended to him, without that he held as undivided, and it is no Plea, but he ought to traverse the Feoffment made by J. D. to the Defendant; for the Plea is as good without [So], and for that in this case, that which comes after the [So] is not material; but where is is material, it is traversable; and for that by *choke*, Debt upon an Obligation, the Defendant saith, That he was a Lay-man, and not learned, and this writing was read to him in place of an Acquittance, and so this Obligation is not his Deed; now this which cometh after the [So] is material, 32 H.6. fol. 16. Tit. Issue 9.

Debt upon a Lease of four Acres, for four pounds of Rent, the Defendant demands Judgment of the Court, for that, that the Plaintiff lett the four Acres, and a Rectory for the four pounds, and ought to traverse without that, that he lett the four Acres only, &c. 35 H.6. fol. 38. and 18 Ed. 4. fol. 17.

One avows for that, that the Plaintiff held an Acre of him by twelve pence; the Plaintiff saith, That he held the same Acre, and another by six pence, without that, that he held of him by the same Services only; and it is not good, but he shall say, Without that, that he held the said Acres in Manner and Form, 13 H.7. 25.

One avows, for that, that he held two Acres by twenty shillings of them; the Plaintiff saith, That he held two Acres, and two others in the same Town, by the Services of twelve shillings, without that, that he held the two Acres only by the Services of twenty shillings in Manner and Form, as, &c. this seems good, 3 H.7. f.5.

where one justifies at another day, then the Plaintiff alledges, and ought to traverse only, before the day of his justification; and where, before and after; where only after.

Trespas against the Sheriff, of a Cow taken, the Defendant justifies, at the day after by a Precept he attached the Cow, and took her with him, without that, that he is guilty, before that Precept to him directed, and this seems good, 9 H. 7. fol. 6.

Trespas of Imprisonment the second day of May, the fourth year; the Defendant justifies the fourth day of August, Anno fourth, aforesaid, by force of a Warrant of the Peace, &c. which is the same Imprisonment, without that, that he is guilty before that day; and it is doubted if he ought to traverse before and after, and there it seems if one plead his Free-hold such a day after, without that, that he was guilty before, it seems good, 5 E. 4. f. 12.

Trespas in Wood first day of August, the Defendant justifies by Prescription to have yearly twenty Cart load there betwixt Michaelmasse and Christmas, and that such a day in November he took them, without that, that he is guilty before Michaelmasse and after Christmas, and good; and the Plaintiff saith, That he acknowledgeth the day that he counted, and traverseth the Prescription, and good, notwithstanding he doth not maintain the day that he traverseth; for it is in the Election of the Plaintiff to maintain the traverse of the time, or to traverse the speciall matter, as in Trespas Anno 7. the Defendant pleads Release, Anno 6. without that he was guilty after the Release; the Plaintiff may say, It is not his Deed, without maintaining the day, 10 Ed. 4. fol. 2. and 22 Ed. 4. fol. 79. the same of Release pleaded, without that he was guilty afterwards.

Trespas where one pleads a Release or Arbitrement at another day, he ought to traverse all the time after the Release, or after the Arbitrement; for all time before is extinct. But if he plead such a day, It is Freehold, there he ought to traverse all time before; and in Trespas of Corn taken the 6th of July, the Defendant justifies as

Parson

Parson the 10th of *August*, for that they were severed from the 9th, without that, that he is guilty at another time ; but after the Tythes severed, and till they were dry, and it is good without traversing before and after ; for it is yearly, and not certain what day of the year. The same Law, where one justifies for Common after Corn sowed, till cut : but otherwise it is, for having Common from *Lammas* till *Candlemas*, there he ought to traverse all the time before *Lammas* and after *Candlemas*, 12 E. 4. fol. 6.

Trespas of a Close broken first day of *May* Anno 8. the Defendant pleads, That the Plaintiff intcoffed him the 4th of *May*, the year aforesaid, without that, that he was guilty before the said 4th. day ; and the Plaintiff saith, That he did not intcoff him, and it is good, without maintaining the day which was traversed before, 15 E. 4. f. 23.

If the Defendant justifie by License at another day, he ought to say, Without that, that he is guilty before or after, 31 E. 4. f. 9.

Trespas of Battery, the Defendant justifies at another day before ; yet he ought to traverse without that, that he is guilty before or after, 30 H. 6. fol. 4.

Trespas of beating the first day of *July*, the Defendant justifies in defending himself the second day of *July*, he ought to say, Without that, that he is guilty before or after, 2 R. 3. fol. 16. 34 H. 6. fol. 14. the same, and 19 H. 6. fol. 47.

Where one shall traverse the Town, and where the County ;
and where not.

Trespas, why he broke his Close, and took his Reeds in B ; it is no Plea that the place is in D, in the same County, and not in B ; but he ought to justify in D. the taking, as by Prescription for repairing his House, or any matter of justification, without that, that he took in B, 9 H. 5. fol. 9. and 4 H. 7. fol. 5. by *Hussey*.

Trespas of Goods in D, in the County of *Middlesex* ; Defendant justifies at S, in the County of D, by commandment of J. S, in whom the property is, without that, that he is Guilty in the County of *Middlesex*, 22 Ed. 4. 38.

Trespas

Trespass of Goods in one County, the Defendant may justify in another, and traverse the County, 7 H. 6. fol. 37.

Trespass of a Close broken in D, the Defendant justifies for common appendant in S. in the same County; he ought to traverse without that, that he is guilty in D, 4 H. 6. fol. 13.

Trespass, why he broke his Close in D, in the County of Darby, the Defendant cannot justify in S, in the County of N. in manner and form, and traverse the County, but plead not Guilty; for upon Not Guilty, the Jury cannot find him Guilty in another Town in another County: but in another Town in the same County they may, and for that he ought to traverse. But in trespass of Goods taken, or of Battery in D, the Defendant may justify in S, in the same County without Traverse, 9 H. 6. fol. 62.

Trespass of Fish taken in a Close in little Henberry, the Defendant justifies in great Henberry in the same County, without that, that he was guilty in little Henberry, and it is good, 19 H. 6. 8. and 20 H. 6. 29.

Trespass of Assault, Battery, and Imprisonment in D, the Defendant justifies in S. in the same County, for helping a woman which the Plaintiff would have robbed at S, and it is good, without traverse, that is, without saying, without that, that he is guilty in Deed, for it is a justification in every place of the said County, 9 Ed. 4. fol. 26.

Trespass upon the Statute of Rich. the fifth year, for entering in 20 Acres of Land in D; the Defendant saith, That J: S. was seised of 20 Acres of S. in the same County, and of them enfeoffed him, and justifies, without that, that he entered into the Lands in D, and it is good. If he give colour in S. to have the Town parcel of the Issue, for inveigling the Jury, 11 Ed. 4. 9.

Trespass in D. of Beasts taken; the Defendant justifies in S, in the same County, doing Damage, without traverse. The same Law of Battery. Yet see the Book, 18 Ed. 4. 11.

Detinue of a delivery to the Defendant in D, in the County of D, to re-deliver to the Plaintiff; the Defendant saith, That the same day and year at S, in the County of N, the Plaintiff bought the Goods of the Defendant for 10 li. upon Condition, that if he paid the 10 li. such a day,

day, that the sale should be void, and that he did not pay at the day, without that, that the Plaintiff delivered them in the County of D. for to re-deliver, and admitted a good Plea : 8 H. 6. fol. 10.

Detinue of a delivery in one County, where it was delivered in another : the Defendant may say, That the delivery was in another County, without that it was delivered where the Plaintiff counts; otherwise, he shall be twice charged, 33 H. 6. fol. 28.

By *Nedham*, in Debt upon a bargain, the Defendant saith, It was made upon condition at another place in the same County. The Plaintiff may say, That it was made simply, without any Condition, ready without traversing of the place, for that, that it is in the same County. But if that Condition were made in another County, there he ought to traverse that it was made simply where the Plaintiff counted, 34 H. 6. fol. 32. And the same Law in detinue of Chattels, and see a bargain traversable, which is in effect the same conveyance, Where he might have waged his Law, 33 H. 6. fol. 35.

Account of Receipt in *London*, by the hands of R; the Defendant saith, That he received them by the hands of R. in C, to deliver to the Plaintiff himself, which he hath done, without that, that he ever received them in *London*, and good, 9 Ed. 4. 48. and 22 H. 6. 55.

Account of Receipt of 10 Marks in *London*, the Defendant saith, He received them in *Cornwal*, to deliver them to J. S, which he hath done, without that, that he was his Receiver in *London*, and it seems a good Plea : 9 Ed. 4. fol. 48.

Trespas in the Parish of W. in D, in the County of E; the Defendant saith, That the place is called W. in D. in the County of K. and justifies, without that, that W. is in the County of E, and not guilty, shall be entred, 34 H. 6. fol. 5.

Trespas of a Bag with Money taken at C, the Defendant saith, That the Plaintiff delivered that to him at L; and it is not good, but that he delivered that to him at L, to deliver to J. S, which he did, Without that, that he is guilty at C, is good : 34 H. 6. 9. and 19 H. 6. fol. 43.

Trespas of an Horse taken at D, in the County of M, the Defendant justifies the taking for a Waif at S, in another

ther County, without that, that he is guilty at D; and it seems nothing shall be entred, but Not guilty: Inquire, 19 H. 7. 27. and 22 Ed. 4. 38. This was entred, and not the general Issue.

Action upon the Case, for that, that the Defendant sold Wood to him at J, and there shewed to him a piece, which is marchantable, and warranted, the rest to be as good as the example, where it is defective. The Defendant saith, That he sold to him Wood at B, and warranted that, &c. without that, that he sold at J, and is good, 14 H. 6. fol. 24.

Action upon the Case upon Assumpsit at London to cure his Horse; the Defendant saith at Oxford, he assumed to cure, &c. without that, that he assumed at London, and it is good: 19 H. 6. fol. 49.

Trespas of beating at D. in the County of D, if the Defendant justifies at S, in the County of N, he ought to traverse the County: 9 H. 6. 62. and 11 H. 6. 20. the same.

Trespas of Goods taken at E, the Defendant pleads, that they were delivered to him at S, in the County of M, to deliver to the Plaintiff, which he did, without that, that he was Guilty at E: 19 H. 6. 48.

In Trespas transitory, where the Defendant justifies in another Country, he ought to take traverse: 19 H. 6. 72. and 4 H. 5. fol. 3. the same, 22 E. 1. 4. fol. 38. 7 H. 6. fol. 37. 10 H. 7. fol. 27.

where he shall say, Yet Ready; and where not.

Detinue of a Chest with Writings against Executors; It is no plea for them to say, That the Writings came to them sealed, and that they were ready to deliver them; and yet are ready, unless that they offer them to the Court, or to say, that the thing is of so great weight, that they cannot bring them hither: 9 H. 6. 65. and 22 Ed. 3. Brook, Always ready, 6 Ed. 4. fol. 11.

44 Ed. 3. tit. 40. Dower, the Tenant saith, That he hath been alwayes ready to render Dower, and yet is: the Demandant avers the contrary; upon which the Demandant shall

shall recover her Dower. But she shall not have a Writ to inquire of her Damages now, for that is the Issue, which shall be tried.

14 H. 8. fol. 28. Dower, If the Tenant come in at the first day, and will averr, That he was alwayes ready and yet is; if the Demandant will not averr the contrary, that the Demandant shall not recover Damages: 5 Ed. 4. Dower 2. Where the Tenant imparles to another Term; he shall not say, Yet ready to render Dower.

21 Ed. 3. tit. 24. Dower, the Tenant alledges, that the Demandant detains a Hamper of Evidences of that Land, and, &c. the Demandant saith, that she is, and alwayes hath been ready to deliver the Hamper, &c. and for that she shall have Judgment forthwith.

22 H. 6. fol. 15. Trespass, the Defendant pleads an Arbitrement which was to pay 10 l. if the day be past, he shall say, That he hath been alwayes ready, and yet is, and bring the money into the Court.

22 H. 6. fol. 45. Debt upon an Obligation, endorsed upon condition, to perform an Award to pay 20 s. before Christmas last past, if he tender before the day, and the other refused, he shall not say, Yet ready, afterwards: Inquire.

Dower, where the Tenant casts an Effoyn; he is not estopped to say, Yet ready to render Dower, 14 H. 6. 4. See in Debt by Hank, 11 H. 4. 60. and 7 H. 4.

Debt, where the Defendant comes upon the Distresse, he may say, Yet ready, 7 H. 4. 11. and 8 Ed. 4. fol. 11. the same.

Debt after imparlance, the Defendant cannot plead, Yet ready, 36 H. 6. 14.

Annuity, where the Defendant comes in at the Distresse, he cannot say, Yet ready, 2 H. 5. f. 44.

Debt, proceſſe continued till the distresse, return *Nihil*, and proceeds to the *Capias pluries*; and the Defendant cometh in, and saith, That he was alwayes ready, and yet is, 11 H. 4. f. 6.

Debt upon an Obligation, to stand to the award, the award was to pay at such a place; the Defendant may say, That he was alwaies ready at the place; without saying, Yet ready, and without tendring the money in Court, 11 H. 6.

27. See 22 H. 6. f. 39. the reason in this case.

Debt

Debt upon an Obligation, to pay a lesser sum at such a day; for the Defendant to say, That he was ready at the place, and offered, and the Plaintiff refused, it is no plea; but shall say, That he hath been alwayes ready, and yet is, and tender the money in Court, for otherwise the Plaintiff shall not have remedy, 7 E. 4. 3. But see 7 H. 4. 19. and 2 E. 4. 3. by Chuke.

Detinue of deeds against Executors, they ought to say, That they were ready, and yet are, for otherwise they shall pay Damages, 22 Ed. 3. tit. 37. Alwayes ready.

Debt upon an Obligation, condition to pay 10 li. such a day and place; and the Defendant tenders that at the day and place, and the Plaintiff receives their part, and respites the rest untill an agreement be made between them, and after the Plaintiff requires it; and the Defendant refuseth to pay it; yet he shall not forfeit the penalty, for this is saved by the first tender. But now by the Court he ought to tender it in Court.

And where one is bound in 10 l. upon condition to pay five pound at such a day and place; and though that he were ready at the day and place, and none comes to receive it: yet by the Court, he shall have the money in Court ready, 7 E. 4. f. 3. See 5 H. 4.

Debt upon an Obligation, the condition to pay so much money as B. shall appoint, for the taking of the Beasts of the Plaintiff; and the Defendant saith, That B. appointed 10 l. which he tendred, and the Plaintiff refused it, Judgment if Action; and it is a good Plea, without saying, Yet Ready: for the condition is to do a Collateral act, and this 10 l. is collateral, and for that he shall not say, Yet ready. But if one be bound in 20 l. and the condition to pay 10 l. there: if he say, That he offered the 10 l. at the day, and the Plaintiff refused it; yet he shall say, Yet ready: for the 10 l. are parcel of 20 l., and for the 10 l. he cannot have action, 19 H. 8. f. 12. and 22 H. 6. f. 45.

Debt upon an Obligation, the Condition, That J. S. should perform the Covenants of an Indenture; the Defendant alledges them performed specially; and one Covenant was, That J. S. should pay to the Plaintiff 10 l.; and he said, That he offered it to him, and the Plaintiff refused; by Fitzh. and Shelley, He need not say, Yet ready, 27 H. 8. fol. 1.

* Debt upon an Obligation, the Defendant saith, That it is indorsed upon Condition, that if the *Prior* of W. made an Obligation to the Plaintiff before such a day, that then, &c. and saith, That the *Prior* rendered that to the Plaintiff, and he refused it, and shall not say, Yet ready; for it is a thing out of his power, and to be made by a stranger, 10 H. 6. f. 17.

If a man be bound in 20 l. and the condition is to pay 10 l. if the Defendant plead in debt upon the Obligation; that he rendered the 10 l. at the day, and the Plaintiff refused it, yet he shall say, Yet ready; but if the condition were, that J. S. should pay at the day to the Plaintiff, and the Plaintiff refused, he shall not say, Yet ready, 14 H. 6. fol. 24.

Debt upon an Obligation of 10 l. the Defendant pleads, that after by Indenture of defeasance, the Plaintiff granted, that if the Defendant payed unto him 20 s. such a day, that then the Obligation should be void; and saith, that he rendered to him the 20 s. at the day, and he refused it; and by *Prisot*, he shall not say, Yet ready, 33 H. 6. fol. 2.

Debt upon an Obligation, the condition to pay a lesse sum; this lesse sum is parcel of the sum in the Obligation, and for that the Defendant shall say, Yet ready; but otherwise it is, where the condition is to stand to the Award or other Collateral matter, there the Defendant shall not say, Yet ready, 20 Ed. 4. fol. 2.

The Court Roll.

Curia Baronis W. T. gen' firmarij R. F. clerici. *Prebend. de*
Prebendar' prebend' prædict' ibidem tenē die Jc- Islung.
 vis, videlicet 6. die Maij. Anno Regni Domine nostræ
 Regine Elizab. dei gratia, Angl', Franc', & Hibern', fidei
 defensoris &c. vicefimo.

J. H. per W. J. esson de comuni.

Iur I H. IP. TG. RM. HM. RH. RE.
 TL. RW. RB. WR. TW.

Essoine
Homagium.

*Defalt. libry
tenentium*

IN primis dicunt super eorum sacramentum quod
 iiij. d. iiiij. d.
 W. A. I. H.

iiij. d.

& R. B. sunt liberi tenentes hujus manerij, & debent
 sectam Cur, & ad hunc diem fecerunt defaltam, idē quibet
 eorum in misericordia, prout patet super eorum capitibus.
 ij. d.

*Def. tenen-
tium per co-
piam rot.*

Item dicunt super eorum sacramentum, quod W. I.
 ij. d.

& I. R. sunt tenent per copiam rotulorum Curie, & de-
 bent sectam Cur, & ad hunc diem fecerunt defaltam, idē
 uterque eorum in misericordia, prout patet super eorum
 capitibus.

Obitus

Item present quod W. I. qui de domino tenuit libere
 unum mesuagium, & triginta acr prati & pastur cum per-
 tisi intra diem istud per fidelitatem, sectam curie, & per
 reddit per annum vj. d. obiit de tali statu sic inde seisit.
 Et quod R. I. est filius & proximus hæres prædicti W. I. &
 est ætatis decē annor. Et ad hanc Cur venit p^r W. I. &
 solvit dño pro relevio 4 d. & fecit fidelitatem.

Alienac.

Item dicunt super eorum sacrament, quod G B. qui de
 domino tenuit libere unum cotagium, unū pomarium, &
 vj. acr prati cum pertisi p^r fac^r suum indent, gerent dat 6.
 die Januarii, Anno Regni dictæ dñæ Reg. dedit, concessit,
 barganizavit, & vendidit omnia & singula premissa p^r
 cum suis pertisi R. K. de &c. Habent & tenent oia &
 singula premissa prædicti cum eorum pertisi prædicti R. K.
 heredi & assigni suis, de capitalibus dominis feoda illius per
 redd^r, servic^r, & consuetud^r inde prius deb^r & de jure con-
 suet^r, & premissa tenet de domino hujus manerij, per fide-
 litatem, sectam Cur, & per redd^r per annum xij. d. Et ad hanc
 Curiam dictus R. K. fecit domino fidelitatem.

Legatio.

Item dicunt super sacramentum suum, quod W. A. qui
 de domino tenuit libere unum mesuagium sive resur, & vi-
 ginte acr terre voc^r H. per fidelitatem, sectam curie, & per
 reddit per annum vj. d. obiit inde seisit. & per ulti-
 mam voluntatem suam in scriptis factis, gerent dat 28. die
 Sept. anno regni dictæ dominæ Regine 19. legavit me-
 suag. sive tenement, & prædicti viginti acra steri, quibusdā
 R. A. & T. A. filijs suis per nomen omnium terrarum,
 redde-

tenementorum, & hereditamentorum suorum, situa, jacentes, & existentes in I. predict. Habend' & tenend' prædicti mesuag. sive tenement' &c. & prædict' viginti ac' terre eiusd' R. A. & T. A. heredibus & assignatis suis imperpetuum, ad proprium opus & usum ipsorum R. & T. & hered' & assignat' suorum imperpetuum. Ideo preceptum est ballivo distring. prædict' R. A. & T. A. secundum formam statuti in eodem casu provisi, ad solvend' relevium, & etiam distringantur ad faciend' fidelitatem.

Item dicunt super sacramentum suum, quod R. R. tenens customarius hujus manerij, extra cur' sursum redd' in manus domini, per manus W. T. & R. M. duorum customar' tenent' hujus manerij secundum consuetudinem hujus manerij, totum illud mesuagium, & triginta ac' prati, pascuæ & pasturæ cum pertinentijs, modo in tenura sive occupatione R. B. ad opus & usum dicti R. R. pro termino vitæ suæ naturalis. Et post decessum dicti R. R. tunc ad opus & usum T. B. & hered' de corpore dicti T. legitime procreator'. Et pro defectu talis exitus de corpore dicti T. B. legitime procreati, reman' inde I. I. filio R. I. de I. predict' genit', hered' & assignat' suis imperpetuum. Et dicunt quod prædict' R. obiit, & nunc ad istam Curiam prædict' T. B. venit, & petit admitti ad omnia & singula præmissa prædict'. Et hanc Curiam dominus per I. K. Sen' suum concessit ei inde seisinam per virgam: Habend' & tenend' eidem T. B. & hered' de corpore suo legitime procreat'. Et pro defectu talis exitus, remanere ad opus & usum dicti I. I. & heredum suorum imperpetuum, & prædict' T. B. dedit domino de fine quatuor libras. Et fecit domino fidelitatem, & admissus est inde tenens.

Ad hanc Cur' testat' est per W. T. Senes. qd' W. N. in extremis jacens x. die A. Anno Regni dictæ dominæ Reginæ xix. sursum reddidit in manus domini per manus ejusdem sen' (absente cur') in presenc' R. C. R. P. & C. H. unum ten' voc' Miles, in quo modo inhabit' W. G. cum omnibus terris & tenementis suis, infra præbend' de I. ad opus & usum M. uxoris sue pro termino vitæ suæ, & post discessum ipsius M. remanere W. T. filio prædicti W. patris, & E. filie ejusd' W. patris ac sororis prædicti W. filijs & hered' suis; sub conditione tamen sequent'. Quod si contingat aliquem prædicti W. filij, & E. filie, obire sine hered'

Surrender

Surre cap't
per Sen'

red' de corpore suo exeunt, quod tunc ipse vel ipsa, qui vel que supervixerit, habebit, & gaudebit tenē prād' sibi & hered' suis imperpetuum. Et super hoc, venit in istā Cū prād' M. & petit se admitti ad tenē prād' cum pertiñ, cui dominus per I. K. Scñ suum concessit inde seisinam per virgam, habend' sibi in forma prēd', ad voluntatem dñi, secund' consuef. man, & dat dño de fine pro ingressu suo inde habend', prout patet &c. Et fecit fidelitatem, & admissus est inde tenens.

Obit' de cop' Item ad hanc cū compeum est per homagē qued quidam W. W. unus filiorum & cohered' R. W. defuncti, qui quidem W. W. tenuit de domino sibi & hered' suis secundum consuetudinē hujus manerii medietatem duorum mesuagiorum sive tenement' & unius gardini cū pertiñ in I. & diu ante hanc cū obiit inde seif. infra ætatem decem annorum, & in custodia ejusdem R. M. secundum consuetudinē manerii, & quod S. W. est frater & solus heres prād' W. W. & plene ætatis, qui presens hic in cū petit se admitti tenent', ad omnia terras & tenementa custodi de quibus ipse W. W. obiit inde seif, viz. ad prediē medietatē dubrum mesuag. sive tenementiorum, hosti, & gardini cum pertiñ infra manerium istud, cui dominus per I. R. Scñ suum concessit. inde ei seisinam, habendam & tenendam sibi, & hered' suis de domino per virgam ad voluntatem dñi secundum consuetudinē manerii prād' per reddit', consuetud' & servicia inde prius debet & consuef. Et dat domino de fine pro ingressu suo prout patet in capite. Et fecit domino fidelitatem & admissus est inde tenens.

Sunt in cū' Itē ad hanc cū venit I. T. & sursum redit in manus dñi decem acf terrē, sive plus sive minus cum pertiñ vocat S. quatuor acf past. sive plus sive minus vocat B. & quatuor acf prati sive plus sive minus vocat K. customat, ad opus & usum R. B. generosi, hered' & assign' suorum imperpetuum per virgam, ad voluntatem domini secundum consuetudinē manerii prædicti, cui quidem R. B. dominus per Senesch. suum concessit inde ei seisinam, Habend' sibi & heredibus suis de domino per reddit' x. s. per annum, & alia servicia inde prius debet: & dat domino de fine pro ingressu inde habendo iij. li. Et fecit domino fidelitatem, & admissus est inde tenens.

Item homag. die super sacramentum suum quod quidam R.S. qui de domino tenuit, ut parceretur per consuetudinem manerii novem acr. terr. custodiat cum una grangia simul cum T.S. fratre suo, sibi & hæredibus suis, obiit extra ultimam curiam, sic scilicet. & quod quidam J. S. est filius & proximus hæres ejusdem R. quoad medietatem prædictam, terræ & grangii prædicti, & est ætatis octo annorum. Et super hoc tam custodia prædicti, J. quam terr. & grang. prædictæ committuntur cuidam S. I. ut proximo amico suo &c. Et invenit pleg. in Cus E. N. ad reddend. præfat. I. de p. officiis inde cum ad ætatem 14. annorum pervenerit.

Obitus.

Item dicunt super sacramentum suum, quod R.W. incroachiavit super vastum domini apud C. in longitudine xx. virgas, & in latitud. unius virgæ. Ideo ipse in misericordia &c. Et ordinat. est, quod exponat eandem ante festum Sancti Joh. Bapt. prox. sub poena forisfact. domino pro qualibet virgâ &c.

Encroachment.

Item dicunt super sacramentum suum, quod G.B. Ballivus domini tali die, anno &c. infra dominium istud distringebat H.S. pro redditu domini tunc per prædict. H. à retro & non soluto. Et quod prædict. H. ad tunc & ibidem rescussum fecit super eundem G.B. Ideo ipse in misericordia &c.

Rescous.

¶ *Plees en Court Baron.*

R. H. queritur versus C.E. & A. uxorem ejus de placito terræ, videlicet, de uno mesuagio, duobus cotagis, viginti acr. prati, & viginti acris pasturæ cum pertinentiis in I. infra jurisdictionem hujus Cus, & fecit protestationem prosequi querelam istam in forma & natura brevis dominæ Reginæ de forma donationis inde remanere ad communem legem, & invenit pleg. de prosequend. querelam illam, in forma & naturæ prædictæ, viz. J.H. & R.M. Et petit process. super inde sibi fieri, secundum consuetudinem manerii prædicti, versus præd. C. & A. uxores ejus &c. Ideo secundum consuetudinem manerii illius, à tempore cujus contrarii memoria hominum non existit usitat. præcept. est sub ballivo manerii prædicti, ac ministro cus prædicti, quod sum. per bonos summon. prædicti

Formedon in rem.

dict' C. & A. quod sint coram seſſatoribus curiæ prædictæ ad proximam curiam manerii prædictæ die Jovis tali die, apud manerium prædictum tenendam, ad respondendum præfato R. H. de prædicto placito &c. Idem dies datus est præfati R. hic &c. Ad quam quidem proximam curiam, venerunt tam prædict' R. H. quam prædict' C. & A. per I. R. attornat' suum, & prædict' minister Cur' prædictæ hinc in curia, quod ipse virtute præcepti prædicti sibi directi, sunt prædict' C. & A. per bonos suos, viz. per I. D. & R. R. essendi hic ad hanc Curiam, ad respondendum præfati R. H. de prædicto placito prædicti unius mesuagii, duorum coragiorum, viginti ac' terr', viginti ac' prati, & xx. acrarum pasturæ cum pectin', prout sibi prædict' fuit &c.

Count.

Et super hoc prædictus R. H. petit versus præfati C. & A. tenementa prædicta cum pertinentiis, ut jus & hereditatem suam, dicendo, quod quidam W. H. fuit seiscitus de tenementis prædictis cum pertinentiis in dominico suo ut de feodo, ad voluntatem domini, secundum consuetudinem manerii prædicti. Et sic inde seiscitus existens, secundum consuetudinem manerii illius, a tempore quo non existit memoria usitatum & approbatam, ad curiam manerii prædictæ tenent apud I. infra prædictum manerium prædicti, die Martis proximo post festum P. Anno Reg. dominæ nostræ Regine Elizab. 22. per I. A. & T. P. Deputat' ballivi manerii prædicti, in presentia T. C. T. S. R. L. I. M. T. R. & I. B. tunc tenent' domini manerii prædicti sursum reddidit in manus domini tenementa prædicta cum pertinentiis, ad opus & usum cujusdam M. tunc uxoris prædicti W. H. tenenda ad terminum vite sue. Et post decessum ejusdem M. prædicta tenementa cum pertinentiis integre remanerent cuidam I. H. filio N. H. fratris prædicti W. H. & heredibus de corpore suo legitime procreatis. Et pro defectu talis exitus ejusdem I. prædicta tenementa cum pertinentiis integre remanere cuidam E. H. filio prædicti W. tenent' sibi & heredibus de corpore suo legitime procreatis, & pro defectu talis exitus ejusdem E. prædicta tenementa cum pertinentiis integre remanere rectis heredibus prædicti W. H. & heredibus suis imperpetuum. Virtute cuius quidem sursum redditionis, prædictus M. fuit seiscitus de tenementis cum pertinentiis in dominico suo ut de libero tenemento, ad voluntatem domini, secundum

con-

consuetudinem manerii prædicti, tempore pacis tempore prædictæ Reginæ Elizab. capiend' inde exple', ad valentiam &c. Et de ipso M. remansit jus per formam sursumrestitutionis prædictæ, secundum consuetudinem manerii prædicti I. H. per quod idem I. fuit seiscus de nemementis prædictis cum pertinentiis in dominico suo ut de feodo talliato, ad voluntatem domini, secundum consuetudinem manerii prædicti, per formam sursumrestitutionis prædictæ, tempore pacis tempore domini Edwardi nuper Regis Angliæ secundi, capiend' inde exple' ad valentiam &c. Et de ipso I. post mortem prædictæ Eliz. (eo quod uterque prædictæ I. & E. obiit sine hærede de corpore suo legitime procreato) remansit jus per formam sursumrestitutionis prædictæ, secundum consuetudinem manerii prædicti, isti R. H. qui nunc petit, videlicet, ut filio & hered' W. I. fratris & hered' prædicti W. H. & inde producit sectam &c.

Plaints of Mortdauncester.

R. C. queritur versus W. L. & E. uxorem ejus de placito cito tenet, videlicet, de uno mesuagio, triginta acris prati, & centum ac' pasturæ cum pertinentiis in I. infra jurisdictionem hujus Curie, & fecit protestationem prosequi querelam suam in forma & natura brevis domine Regine assise mortis antecessoris ad communem legem &c. Et petit processum pro eo fieri secundum consuetudinem hujus manerii, in forma & natura brevis prædicti, dirigend' ballivo & ministris hujus Curie. Et quod iidem Ballivus & Ministri per mādā. & præceptū domini hujus manerii, & secundum consuetud' ejusdem manerii, summoniar. per bonos sum' x. j. probos & legales homines de homagio hujus manerii, quod sint coram Seneschallo ejusdem manerii ad proximam curiā infra manerium istud tenend' parati sacramentum recognoscere, si R. C. pater prædicti R. fuit seif. in dominico suo ut de feodo, ad voluntatem domini, secundum consuetudinem manerii istius, die quo obiit, de & in uno mesuagio, triginta ac' prati, & centum ac' pasturæ, de tunc customas hujus manerii cum perrin vocat C. infra jurisdictionem hujus Curie die quo obiit. ¶ Et si idem R.

*On toutes
sont Copy-
holders.*

pater obiit infra 70. annos jam ultimos elapsos. Et si prædictus R. filius sit propinquior heres prædicti R. patris, & interim terras & tenementa prædicta videant. Et quod summonentur per bonos summonitores prædicti W. & E. qui eadem terras & tenementa nunc tenent, quod sint ibi ad audiendum recognoscere, & inveniendi pleg. ad prosequendum querelam suam prædictam J.D. & R.R.

Barre.

Et modo hic ad hanc Curiam venit prædictus W.L. in propria persona sua, & dicit quod prædictus R. pater dicti querentis, non fuit seissus in dominico suo ut de feodo, ad voluntatem domini, secundum cons. hujus manerii die quo obiit de prædicto mes. & triginta ac. prati, & centum ac. pastur. cum pertinentiis modo & forma prout per prædictum querentem prius supponitur. Et hoc petit quod inquiratur per assisam, & prædictus querens similiter.

¶ Entre in le Per & Cui.

AD hanc Curiam venit J.N. in propria persona sua, & queritur versus T. May de pl'ito terr. viz. de uno mesuagio, uno gardino, & uno pomario cum pertinentiis. Et invenit pleg. de prosequendo querelam suam prædictam, viz. J.D. & R.R. Et protestatur prosequi querelam suam prædictam, de prædicto mesuagio, gardino & pomario, cum pertinentiis in J. in natura & forma brevis domine Regine, de ingressu in le Per & Cui. Dicendo quod idem mesuag. & gardin cum pertinentiis, sunt jus & hæreditas suas, secundum consuetudinem manerii prædicti. Et in quo prædictus T. M. non habet ingressum nisi per El. nup. uxorem W. M. & filiam R. P. cui prædictus R. N. & M. uxor sua illa dimisit, qui inde injuste & sine judicio disseisivit R.N. per rem ipsius J.N. infra 70. annos jam ultimos elapsos, &c. Et petit processum inde sibi fieri versus prefatum T.M. secundum consuetudinem manerii. Ideo secundum consuetudinem manerii illius preceptum est J.B. Subballivo ejusdem manerii ac ministro curie prædictæ quod secundum consuetudinem manerii prædicti sum per bonos summonas prefatus T. M. quod sit ibi ad proximam curiam, scilicet 4. die M. proximo futurum hic tenendum ad respondendum prefatus J.N. de placito prædicto, &c. Idem dies datus est. Jo. N. hic. &c.

AD hanc curiam veni A. B. civis & mercator L. in propria persona sua & queritur versus W. W. de placitū terf, viz. de uno mesuagio, uno gardiū, & una aera terræ cum pertinentiis in J. tenē de isto manerio per copiam rotulorū curiæ istius manerii, & fecit protestationem prosequi querelam suam predictā in curia predictā in forma & natura brevis dominæ reginæ de recte patenti ad communem legem, secundum consuetudinem manerii predicti. Et inveni pleg. de prosequendū querelam suam predictā hic in eadem curia, scilicet J. D. & R. F. Et petit processū superinde sibi fieri versus prefatum W. W. secundum consuetudinem manerii predicti. Ideo secundum consuetudinem manerii predicti prec' fuit J. S. Ballivo manerii predicti, ac ministro curiæ illius quod sum predict' W. W. ita quod sit hic ad proximā curiā manerii predicti hic scilicet die sabbati viz. 4. die I. tenend', ad respond' pref. W. W. de placito predicti & tunc quod habeat ibi nomina summorum & hoc preceptum. Et idem dies datus est petenti hic, &c. Et modo scilicet ad hanc curiam veni predict' W. W. in propria persona sua, & in plena curia hic gratis obtulit ad respondendum pref. A. B. de placito predicti per bonos suos, scilicet J. D. & R. R. secundum consuetudinem manerii predicti. Et super hoc modo ad hanc curiam predicti A. B. scilicet in propria persona sua venit & petit versus predict' W. W. mesuag. predicti, gardiū & aera terf predicti cum pertinentiis in I. predicti tenē de isto manerio per copiam rotulorū curiæ illius, ut ius & hereditatem suam, & unde dicit quod ipsemet fuit feifus de tenemento predicto cum pertinentiis in dominico suo ut de feodo & jure, secundum consuetudinem manerii predicti tempore pacis, tempore dominæ Reginæ hunc capiend' inde explet ad valent', &c. Et quod tale sit ius suum offert, &c. et predictus W. W. venit & defendit ius suum quando &c. & feifinam ejus de qua feifina, &c. ut de feodo & jure &c. & maxime de tenementis predictis cum pertinentiis, & rotum &c. Et ponit se super homagium predictæ dominæ Reginæ curiæ predicti, secundum consuetudinem manerii predicti, & petit recognitionem fieri, utrum ipse majus ius habeat tenend' tenementa predicta cum pertinentiis, sicut ille tenet, an predictus A. B. habend' predicta tenementa cum per-

tinentiis sicut ille superius petit &c. Et prædictus A. B. petit licentiam inde interloquend' usque horam undecimam ante meridiem ejusdem diei, & habeat &c. eademq; hora dat' est præfato W. hic &c.

Et postea idem A. B. revenit hic in curiam isto eodem die ad prædictam horam in propria persona sua. Et præd' W. W. licet solemniter exac' non reveñ, sed in contemptu curiæ recess, & defaultam feci. Ideo secundum consuetudinem manerii prædicti, concessum est per Curiam quod prædictus A. B. recuperet seisinam suam versus prædictu W. W. de tenementis p'd' cum p'tineñ secundum consuetud' man' p'd' tenend' eidem A. B. & heredibus suis secundu consuetudinem dicti manerii, quic' de pred. W. W. & heredibus suis imperpetuum. Et idem W. W. in m'ia &c. Et modo ad istam cur' dñs in executione judicii, & recuperatione p'd' per se suu concessit præfato A. B. de tenementis p'd' cum p'tinentiis seisin', tenend' sibi, heredibus & assignatis suis p' virgam, ad voluntatem dñi secundum consuetudinem maner'. Et fec' inde dño suu & fidel', & admiss' est inde tenens.

Et postea scilicet ad istam eandem curiam prædictus A. B. adtunc presens existens veñ, & prædictus W. W. sursum reddidit in manus dñi ten' prædict' cum pertinentiis, ad opus & usum pred. A. B. hered', & assign' suorum imperpetuum. Et ulterius præf. W. W. remisit, relaxavit, & omnino p' se & heredibus suis imperpetuum quic' clari præfat' A. B. hered' & assign. suis in sua plena & pacifica possessione & seifina existen', die consecution' præsen' secund' consuetudinem dict' maner' de & in ten' pred' cum p'tin'. totum jus, statum, titulum, clameum, interesse, seu dd' sua quecunque, quæ unquam habuit, habet, seu quovismodo in fut' h'ere poterit de aut in ten' p'd' cum p'tin' aut aliqua p'cella eorund', ita viz. quæ nec p'f. W. W. nec hered' sui aut al' eor' aliqua jus, titulum, statum, clameum, interesse seu demaund' de aut in tenementis prædictis cu' pertinentiis suis, nec in aliqua parcella eorundem de cætero exiget, clamaf, seu vindicare poterint, nec debent in futur', sed ab omni actione juris, tituli, clamei, usus, interesse & demaund' inde petend' imperpetuu sint exclusi, et quilibet eor' sit exclusus in perpetuu per præsentis. Et præterea, præfat' W. W. concessit pro se et heredibus suis quæ ipse warf ten' fuit cum p'tin' p'f. A. B. & her' suis contra omnes homines in perpetuum.

Ad

AD hanc Cur &c. veni W. T. filius et heres W. T. defuncti et admissus est tenens per virgam unius campi vocat C. continet per æstimationem octo acr prati cum pertinenti in J. prædicti, sive plus sive minus, cum pertinenti, habent sibi et heri suis ad voluntatem domini secundum consuetudinem Manerii prædicti, et solvit domino pro ingressu suo habendo, &c. et fecit fidelitatem &c.

*Common
rec. in Entre
in le Post.*

Et postea ad istam eandem cur venit prædictus W. T. et sursum reddidit in manus domini in eadem cur prædicti campum vocat C. continet per æstimationem octo acras prati sive plus sive minus, jacentem inter J. prædicti cum pertinenti, cujus caput occidental' abbuttat super quandam viam vocat K. et caput boreal' inde abbuttat super clausum modò S. W. ad opus et usum M. M. et heredum suorum imperpetuum. Et super hoc venit prædictus M. M. et petit de domino in eadem cur admitti tenens ad prædictum octo acr prati cum pertinenti, habent et tenent sibi et heri suis in perpetuum, ad voluntatem domini secundum consuetudinem manerii prædicti, faciend' et reddend' inde redditus, servit' et consuetudines inde prius debite & consuete, cui domin' n. Seneschall' suum concessit inde seisinam per virgam ad voluntatem domini secundum consuetudinem manerii prædicti, et solvit domino de fine tali ingressu suo inde habent' liij. s. iiij. d. Et fecit domino fidelitatem, et admissus est inde tenens.

Et postea, scilicet, ad istam cur venerunt R. M. et W. M. & querunt versus prædictum M. M. de placito terræ, viz. de prædictis octo acris prati, et fecerunt protestationem sequi querelam istam in forma et natura brevis domine Regine de ingressu super disseisinam in le Post. Et super hoc prædicti R. et W. M. in propriis personis suis petunt versus prædictum Michaelem M. prædictas octo acras Prati cum pertinentiis in J. infra jurisdictionem hujus Curie, ut jus & hereditatem suam, & in quas idem M. M. non habet ingressum nisi post disseisinam quam H. H. inde injuste & sine judicio fecit præf. R. & W. infra triginta annos jam ultimos elapsos &c. & unde dicunt quod ipsimet fuerunt seisciti de prædicto octo acris prati cum pertinentiis in domino suo ut de feodo, & jure, ad voluntatem domini, secundum consuetudinem manerii prædicti capiend' inde expleat ad valentiam &c. & in quas &c. & inde producant seisinam &c.

Et

Et prædictus M. M. in propria persona sua venit & defendit jus suum quando &c. & voc^o inde ad warrant prædict^o W. T. qui presens est hic in Curia in propria persona sua, & gratis prædict^o octo acras prati cum pertinentiis ei Warf &c. Et super hoc prædict^o R. & W. M. petunt versus ipsum W. T. tenement per warrantiam suam, prædict^o octo acras prati cum pertinentiis in dominico suo ut de feodo & jure, ad voluntatem domini, secundum consuetudinem manerii prædict^o tempore pacis tempore dominæ Reginæ nunc, capiend^o inde exple^t ad valenc^o &c. & in quas &c. & inde pducit sectā &c.

Et prædictus W. T. tenens per Warf suam defendit jus suum quando &c. Et ulterius vocat inde ad Warf C. D. qui simul presens est hic in Curia in propria persona sua, & gratis prædict^o octo ac^o prati cum pertiⁿ ei Warf &c. Et super hoc iidem R. & W. M. petunt versus ipsum Christof. tenent^o ad Warf præd^o octo acras prati cum pertinentiis, unde dicunt qd^o ipsimet fuer^o seilf. de ej^odem octo ac^o prati cum pertiⁿ in dominico suo ut de feodo & jure, ad voluntatem domini, secundū consuetud^o man^o præd^o tempore pacis tempore dominæ Reginæ nunc capiendū inde exple^t ad valenc^o &c. & in quas &c. & inde producunt sectam &c.

Et prædict^o R. & W. M. petunt licentiā interloquedi & habent &c. Et postea iidem R. & W. M. reverent^o hic in cur^o ad istam eandē cur^o in p^oriis p^osonis suis, & p^o T. licet solempn^o exact^o fuit, non revenit, sed in contēp^o cur^o recessit & defalt^o fecit. Ideo concess. est qd^o p^o R. & W. M. recuper^o seilf. suam vers. p^o M. M. de p^o octo ac^o prati cum pertiⁿ &c. Et que idē M. M. habeat de terr^o p^o æd^o W. T. ad valenc^o &c. Et qd^o idē W. T. ulg^o habeat de terris prædicti C. D. ad valenc^o &c. & idem C. in misericordia &c. Et super hoc prædicti R. & W. M. petunt precept^o de habere faciend^o eis plenariam seisinā de prædictis oct^o acris prati cum pertinentiis, miniss^o curiæ prædictæ dirigend^o, & eis conceditur returnabil^o hic inde lat^o &c. Et postea scilicet isto eodem primo die Aprilis ven^o hic in curia prædicti R. & W. M. in p^oriis p^osonis suis, & minister curiæ prædictæ videlicet R. W. certificavit Curia prædictā quod ipse virtute precepti prædicti, sibi inde directi dicto primo die Aprilis habere fecit prefatis R. & W. M. plenariam seisinam de prædictis

octo acris prati cum pertinentiis prout per preceptum predictum sibi mandatum fuit, &c.

Et postea scilicet ad istam eandem curiam predicti R. & W. M. & predictus W. T. adtunc presentem existentem venerunt ac sursum reddiderunt in manus domini in eadem curia predictas octo acras prati cum pertinentiis, ad opus & usum predicti M. M. heredum & assignatorum suorum, cui don inus per Sen suum predictum concessit inde seisinam per virgam. Habendum & tenendum sibi & heredibus suis, ad voluntatem domini, secundum consuetudinem manerii predicti &c. & ulterius predicti R. & W. M. & W. T. remiserunt, relaxaverunt, & omnino pro se & heredibus suis imperpetuum quieti clari prefato M. M. heredibus & assignatis suis in sua plena & pacifica possessione & seisinam existentem in plena Curia totum jus, statum, titulum, clameum, interesse seu demandum sua quecunque, quae unquam habuerunt, habent, seu quovismodo in futurum habere poterint, de aut in predictis octo acris prati cum pertinentiis, aut in aliqua inde parcella. Ita videlicet quod nec prefati R. & W. M. & W. T. nec heredes sui aut aliquis eorum aliquod jus, titulum, statum, clameum, interesse, seu de aut in predictis octo acris prati cum pertinentiis suis nec debent in futurum, sed ab omni actione juris, rituli, clamei, usus, interesse, & demandum inde pretendi sint exclusi & quilibet eorum sit exclusus imperpetuum a presentibus & preterea pref. W. T. concessit a se & heredibus suis, que ipsi vult predicti octo acris prati cum pertinentiis pref. M. M. & heredibus suis contra omnes homines imperpetuum, &c.

5 H. 8. 71. Recovery in value 27. in fine. And 23 H. 8. Tit. Recovery in value, 27. Recovery against the Husband and Wife, where the Wife is Tenant in Tail, and they vouch over, and the Demandant recovers against the Husband and Wife, and they over in value, this it seems shall bind the Tail, and the Heir of the Wife.

23 H. 8. Title, Tail, 32. Double Voucher in Entry in the Possession, bars the Tail, because of the Recompence, but single Voucher shall not bar, but the Estate Tail which he had, time of the Recovery in possession; but if he were in of another Estate, time of that Recovery it is no Barr.

23 H. 8.

23 H.8. Tit. *Recovery in value*, 27. Entry in the *Post* against Tenant for life, to bind the Fee in Reversion, Tenant ought to pray ayd of him in Remainder, and they ought to Vouch.

25 H.8. Tit. *Recovery in value*, 33. Where Tenant for life vouches a Stranger, and the Demandant recovers, and he over in value, this shall not go to him in reversion, and shall not bind him.

27 H. 8. Tit. *Recovery in value*, 28. Tenant in tail, Remainder over entry in the *Post*, against Tenant in tail, and he vouches over; this is a recompence, and shall Bar the Remainder.

*Pleas in Court Baron:
Count upon Lending.*

I. S. queritur versus T. D. in plac' debi' xxx. s. iiii. d. pro eo, viz. &c. Et inde idem J. S. per W. T. attorn suum dic', quod cum præd' T. D. x. die Feb. Anno Reg. domine Eliz. nunc Reg. Ang. xx. apud Inling. infra jurisdictionem hujus Cur', mutuatus fuisset de p' J. S. præd' xxx. s. iiii. d. solvend' eidem J. S. cum inde requisit' fuisset, præd' tamen T. D. licet sepius requisit' præd' xxx. s. & iiii. d. eidem J. S. nondum reddidit, sed ill' ei hucusq; reddere contradixit & adhuc contradicit, unde dic' quod deteriorat' est, & dampnum habet ad valenc' x. s. & inde produc' scilicet &c.

*Form of a Plaint in a Court Baron upon buying of
Oyl and Madder, &c.*

G. B. querit' vers' R. C. in pl'ico debi' xxx. s. iiii. d. pro Geovill', quod cum præd' R. C. xi. die April', Anno dñi 1540. apud J. inf. jurisdictione hujus cur', emisisset de eod' G. B. xiiij. lagenas olei vocat' meat-Oyle, pro xv. s. & iij. d. unam centenam de Madder pro quindecim solidis & uno denario, solvend' eidem G. B. cum inde requisitus fuisset, quæ quidem summe in toto se attingunt ad præd' xxx. s. iiii. d. præd' tamen R. C. licet sepius requisitus, prædictas xxx. s. iiii. d. eidem G. B. nondum reddidit, sed ill' ei hucusque reddere contradixit, & adhuc contradicit, unde dic' quod

deteriorat est, & dampnum habet ad valenc' x. s. Et inde producit sectam &c. Et præd' R.C. per J.A. attorn' suum ven' & defend' vim & injur', quando &c. & dic' quod ipse non debet præf. G.B. præd'. xxx.s. & iiij.d. nec aliquem denar' in forma qua idem G. B. superius versus eum querit. Ideo concess. est quod præd' R.C. vadeat ei inde legem suam se duoden' manu, pleg, de J.M. & R.J. & ven' cum lege hic ad proximam cur' in propria persona sua, & dic' est pref. attorn' præd' R.T. quod tunc habeat hic eundem R.C. magistrum suum in propria persona sua ad perficiend' legem suam præd' &c.

Plaint for accusing a man of Felony, and imprisoning him.

T. H. querit versus S. D. pro eo viz. quod cū dictus querens verus, & fidelis ligeus ac subditus dñæ Reg. nunc & pgenitor' suor' regni Angl' à tempore nativitat' suæ semp' existeret, & ut verus ligeus dictæ dominæ Reg. nunc, & on' progenitorum suorum præd', à toto tempore præd' absq; ullo crimine latrocinii, furti, felon' aut alio crimine notorio quocunq; à tempore nativitat' suæ hucusq; se gesserit habuerit & custodivit. Et sic apud omnes probos not', dictus, & reputatus fuit. Quorū quidē bonorum nois, famæ, & conversationis pretextu, idem querens multū & grand' lucrū & profic' ad manutentionē victus sui acquisiverit & habuerit, prædict' tamen def. premissorū non ignarus xvij. die Julij Anno Regni dñæ Eliz. nunc sexto, apud J. intra jurisdictionem hujus cur' ex sua mra malicia & malo animo, machinans & proponens bonam famam, victum, gradū, statum & conditionē dic' querent' denigrare, & ipm querent' in malum nomen & periculum vitæ suæ inducere quantū in se fuit, quædam falsa, maliciosa, & scandalosa verba de pref. quer' dixit, propalavit, & publicavit viz. Thom' H. (ineundo dic' querent') *batb robbed me of xl. li. of money.* Quorum quidem verborum falsorū & scandalos. proclamationis & publicationis pretextu, idem querens non solum in bonis, noie, & fama suis, quibus ipse preantea notus & reputat' fuit, apud diversos viros honestos, & p'cipue apud J. A. Inholder graviter lesus & deterioratus existeret, existit, ac in magnam infam-

infamiam & incredulitatē apud eundem J. H. et nonnull' alios dictæ dominæ Reginæ nunc fideles subdiē incurrit & incidit, verum etiam W. G. & W. C. constabularii de J. prædict' rationē subpena per ipsos concept', ratione ejusdem scandali cont' præf. querent' vulgarit' tunc de vulgar' occasione publicationis verbor' quod prædict' querent' tuit culpabilis de feloni' præd', postea scilicet eodem xvij. d. e Julii ipm querent' apud J. prædictā cepit & in prisona dictæ dominæ Reginæ voc' &c. scituat' &c. tunc in prisonayē in qua quidē prison', idem quer' à dict' xvij. die Julii, usque xx. diem ejusdem mens. Julii pro causa præd' detent' fuit. Quo quidem xx. die Julii, idem quer' ab eadem prison' usque prisonam &c. dictæ dñe Reg. in &c. scituat' &c. amotus fuit, & tunc & ibid' incarceratus, & in prison' à dicto xx. die Julii, usque xxvij. diem dicti mensis Julii, pro causa præd' detent' fuit, ita quod idem querent' non solum grand' mis. & expens. occasione imprisonmenti & incarceration' p'd' sustinuit, verum etiam multa grand' proficua, lucr', & emolument', que de dicto subdito ad manutenc' victus sui habere & lucrā potuisset, si dict' verba scandalosa & malitiosa dict' p'opalar' & public' non fuisset. occasionē prædict' totalit' perdidit & amisit, ad dampnum ipsius quer' &c. xxxij. s. iij. d. & ind' produc' si etiam &c.

Trespasses, Plaint for walking with his Feet.

I. R. queritur versus T. B. viz. in placito quare vi & armis claus. ipsius J. R. apud D. freg. & herbam suam ad valenc' xxxv. s. & viii. d. ibidem nuper crescent', pedibus suis ambuland' conculc' & consumpsit. Et alia enormia ei intulit, ad grave dampn' ipsius J. R. & contra pacem dominæ Reg. nunc &c. Et unde idem J. R. dic' quod cum prædict' T. B. vicesimo septimo die Januarii, Anno Regni dictæ dominæ Reg. nunc iij. vi. & armis claus. ipsius J. R. apud D. fregit, & herbā suam ad valenc' &c. ibidem nuper crescent' pedibus suis ambuland' conculcavit & consumpsit, & alia enormia &c. ad grave dampnum &c. & contra pacem &c. und' dicit quod deterioratus est, & dampnum habet ad valenc' &c.

Et prædictus T. in propria persona sua venit & defendit
vim & injuriam quando &c. & dicit quod ipse in nullo est
inde culpæ de transg. prædictus, prout prædictus J. superius versus
eum querit, & de hoc ponit se super patriam, & per quere-
rens similiter &c.

Entry of the great Cape.

A. quæ fuit uxor C. J. per A. B. atornatæ suum obiit
se ad istam Curiam versus T. J. de placito tertie par-
tis unius mes. & viginti acrarum terræ cum pertinentiis in J.
quam eadem A. in curia ista hic clamavit ut dotem suam, ex
dotatione prædicti J. C. quondam viri sui, eo quod tene-
mentis prædicti sunt infra dominium istud. Et mulieres que
post mortem viros suorum de tenementis in J. prædicti ex-
istent dotabiles sunt, secundum consuetudinem in eodem ma-
nerio à tempore quo non extat memoria usitatæ de tertia
parte eorundem dotari debent &c. Et ipsi non veni, & sum
&c. Ideo per iudicium tertia pars prædicti cum pertinentiis ca-
piatur in manum domini &c. Et diem &c. prædicti sum
quod sit hic ad proximam curiam &c.

Precept of the great Cape.

I. K. Sen, ballivo ejusdem salutem, capias in manum do-
minum per visum proborum & legalium hominum de
manerio isto tertiam partem unius mesuagii, & viginti
acrarum terre cum pertinentiis in J. quam A. J. in curia ista &c.
clamavit versus T. J. nuper de J. ut dotem ipsius A. ex dota-
tione prædicti C. J. quondam viri sui, per breve de dote,
unde nihil habet pro defectu ipsius T. Et eadem captionem
Scire facias mihi, & sum per bonos sum prædicti T. quod
sit hic ad proximam curiam inde respondere & ostendere quare
non fuit hic ad ultimam curiam sicut summonitus fuit. Et ha-
bens ibi nomina eorum per quorum &c. hoc feceris sum,
Teste &c.

Entry of a small Cape.

T. Q. arnī & J. uxor ejus, per attornū suum, obtul' se 4. die versus H. B. de J. & A. uxorem ejus de plac to tertie partis oct' mēf. & octo virgaf' reif' cum pertiñ in J. quam prædic' T. & J. in cui' ista clāh' ut dotem ipsius J. ex dotatione G. S. quond' viri sui versus eos. Et ipsi non ven', & habuerunt inde diem hic usque ad hunc diem, scilicet decimum diem &c. post quam aliās comparuerunt hic in Curia; ideo per judicium tertia pars prædicta cum pertiñ capiaē in manum domini. Et ipsi summi &c. qd' sint hic in die &c. auditur' inde judicium suum &c.

Præcipe of Summons upon a right Patent &c.

I. K. Seneschall' ballivo manerii prædic' salutem: J. S. queritur versus J. D. in placito terræ, & fecit protestationem sequi querelam istam in natura brevis domini Regis de recto patenti. Ideo tibi præcipio, quod secundum consuetudinem manerii illius, summi per bonos summoniē prædic' J. D. essend' hic ad proximam Curiam ibidem rentam tali die, ad respondend' in placito præd'. Et habeas ibi hoc præceptum, & qualiter &c. Dat' &c.

Precept upon Assise of Mortdancester.

I. K. Seneschallus, ballivo manerii prædic' salutem. Quia J. S. querit' ut supra, ideo tibi precipio, quod summi per bonos summoniē xij. liberos & legales homines tenentes man' prædic', quod sint coram me præf. Senesch. ad proximam Curiam ibidem tenend', viz. die Mercurii xix. die Septembris prox. futur', ad horam octavam ante meridiem ejusdem diei, paraf' sacramento recogn', si T. S. pater prædic' J. S. fuit seisiē in dominico suo ut de feodo, de quobus mesuag. &c. cum pertinentiis in D. infra jurisdictionem hujus Curie, die quo obiit. Et si obiit infra quadraginta annos jam ultimos elapsos. Et si idem J. S. sit propinquior

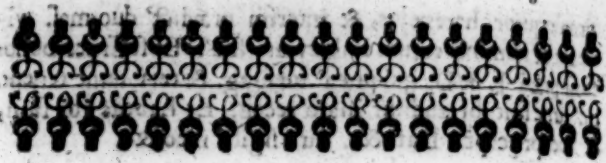
propinquior heres ejus, & interim prædicti duo mes. videant & nomina eorum imbrevari fac'. Et sumi per bonos sumi præd' J. & D. qui præd' mesuag. & terri nunc tenent, qd' tunc sint ibi auditur illam recog. Et habeas ibi sumi, & hoc præcep't. Dat' &c. sub sigill' meo &c.

To make, to have possession.

I. K. Seneschallus, ballivo ejusdem, salutem. Scias quod A. B. in Curia tanta tali die per considerationem ejusdem Cur' recuperavit seisinam suam versus B. de octo ac' terri cum perti'n in J. per defaultam prædicti B. Et ideo tibi precipio, quod eidem A. B. plenariam seisinam de ten'e prædictæ cum pertinentiis sine dilatione habere facias seisinam. Et habeas ibi hoc præceptum, & qualiter &c. Dat' &c. die &c.

Small Cape.

I. K. Seneschallus, ballivo ejusdem, salutem. Tibi precipimus, quod capias in manum domini per visum proborum et legalium hominum de manerio isto, unum mesuagium cum pertinentiis, quod A. B. in Curia ista clamat ut jus suum versus B. R. per querelam de forma donationis *en le* remanere pro defectu ipsius B. & diem captionis Scire fac' mihi ad proximam Curiam. Et sumi præd' B. R. quod sit hic coram &c. tali die inde responsus & ostensus quare non fuit hic in Curia ista coram &c. tali die proximi præterit, sicut summoni fuit. Et habeas ibi hoc præceptum, & qualiter &c. Datum &c.



The Return of WRITS newly corrected.

With divers other good Returns, and many Cases of the Common Law to that added: very necessary and profitable, as well to young Students of the Law, as to Sheriffs, Coroners, and others, which are to make Returns of Writs, for the better understanding of the Law in the said Returns.

The Return of Proces in the Court-Hundred, Court-Baron, &c.

Pleg. de prosequendo, J.D; R.F.

Pone.

Infranoninatus H.E. attachatus est per pleg. N. F. R. D.

J. D. Miles vic.

Infranoninatus J. H. nihil habet in balliva mea; per quod attachiari potest.

Note, That every *Pone* is but a Summons.

*Pone sur
Repleg.*

Virtute istius brevis mihi directi posui coram Justiciariis dominæ Reginæ de Banco apud Westm. loquelam quæ est in comitatu nro per breve dictæ dominæ Reginæ, inter T.W. & H.B. de averiis ipsius T. W. captis & injuste

Injuste detentis, ut dic', prout patet in quadam scedula huic brevi annexa &c.

Som T. P. J. D.

Ad Comitatum meum tentum apud N. xij. die N. anno regni domine Regine nunc &c. 23. T. W. queritur versus H. B. de placito captionis et injuste detentionis averiorum. Et sunt plegii de prosequendo & retorñ habend', si retorñ inde adjudicet', videlicet, J. M. W. F. In cujus rei testimonium J. K; B. C; D. G; & R. S. quatuor legales homines ex illis qui recordo illi interfuerunt in plena curia illa, eidem recordo sigilla sua alternatim apposuerunt die & anno supradictis.

Scedula.

Virtute istius brevis mihi directi in pleno comitatu meo tento apud W. in comitatu W. infra scripti, tali die & anno, recordari feci loquelam, quæ est in eodem Comitatu inter partes infra scriptas, unde interius sic mentio. Quæ quidem loquela patet in quadam scedula huic brevi annexa. Et recordum illud habeo coram Justiciariis infra scriptis, ad diem & locum infra content' sub sigillo meo, et sigillis W. H; T. R. &c. quatuor proborum & legalium Militum ejusdem Comitatus, ex illis qui recordo illi interfuerunt. Et partibus infra scriptis diem illum præfixi, quod tunc sint in loquela illa prout justum fuerit prosecutus, prout interius mihi præcipitur.

*Recordari
fac. loque-
lam in
com.*

Ad Comitatum meum W. tentum apud W. in comitatu prædicto, tali die et anno, coram W. H; S. S; T. V; & A. B. quatuor sectatoribus curiæ prædictæ, inter alia sic continetur :

Scedula.

R. S. queritur versus J. T. de placito captionis et injuste detentionis averiorum suorum, contra vad' et pleg. &c. Et sunt pleg. de prosequendo necnon de retorñ habend', si retorñ inde adjudicetur.

Loquela. 1

Pleg. de prosequendo J. D. R. F. In cujus rei &c.

Aliter. 1

Virtute istius brevis mihi directi, recordari feci loquelam, quæ fuit in Comitatu meo inter partes infra scriptas, & eisdem partibus diem præfixi essendi coram Justiciariis infra scriptis, ad diem et locum infra content', prout istud breve in se exigit et requirit : Quæ quidem loquela patet in quadam scedula huic brevi confusa.

A. B. queritur versus C. D. de placito captionis et injuste detentionis averiorum. Pleg. &c. [ut ante.]

Loquela. 1

Aliter

Virtute istius brevis recordari feci loque'am quæ est in comitatu meo sine brevi domine reginæ inter W. H. & A. D. de averiis ipsius W. H. capris & injustè detentis, ut dic'. Et recordum illud habeo coram Justiciariis infra scriptis, ad diem et locum infra content' sub sigillo meo & sigillis T. W. &c. quatuor legalium Militum de comitatu meo, ex illis, qui recordo illi interfuerunt, prout patet in quadam scedula huic brevi annexa, secundū exigentiam istius brevis &c.

*Loquela
Accedas ad
curiam*

¶ Ad Comitatum meum tentum &c. ut supra.

Virtute istius brevis, in forma infra scripta, accessi ad Curiam infra scriptam, et in plena curia illa recordari feci loquelam infra scriptam. Et recordum illud, prout patet in scedula huic brevi consuta, habeo coram Justiciariis infra scriptis ad diem & locum infra content'. Et partibus infra scriptis diem illum præfixi, quod tunc sint ibidem in loquela illa prout justum fuerit processur', prout interius mihi præcipitur.

Scedula

A. B. queritur de C. D. de placito captionis et injuste detentionis averiorum ipsius A. B. In cujus rei testimonium I. K; T. S; W. H; & R. I. quatuor legales homines ex illis qui recordo illi interfuerunt in plena curia illa tenta apud D. x. die J. anno regni domine Regine nunc, xxij. eidem recordo sigilla sua alternatim apposuerunt, die & anno supradictis &c.

Aliter

Nulla Curia infra scripti I. D. unde infra sic mentio, tenta fuit post receptionem hujus brevis, et ante diem retorn ejusdem, per quod executio istius brevis ad præsens per me fieri potest.

Aliter

*In Court Ba-
vor vel huss-
redo.*

Virtute Brevis domine reginæ huic scedulae annexi, assumptis mecum B. C. D. E. F. G. H. I. quatuor legalibus Militibus de dicto comitatu meo, in propria persona mea accessi ad tale Hundredum, vel ad talem Curiam, & in plena curia illa, sive in pleno hundredo, loquelam coram Justiciariis infra scriptis ad diem et locum interius content' sub sigillo meo & sigillis quatuor legalium hominum ejusdem curiæ, qui recordo illi interfuerunt, habeo paratam huic brevi annexam, juxta tenorē hujus brevis: Et partibus in eodem brevi nominatis eidem diem præfixi, quod tunc sint ibi in loquela illa, prout justum fuerit processur', secundum quod illud breve in se exigit et requirit &c.

Virtute

Virtute brevis dñæ Reg. huic scedulæ annexi (assumptis *Aliter*
mecum quatuor discreti & legal' Militibus de conu W.)
accessi ad hundredum, unde in dicto brevi fit mentio,
tenentem apud B. tali die & anno: & in pleno hundredo
illo loquelam, unde in dicto brevi fit mentio, recordari
volui. Et J. S. ballivus, adtunc & ibidem in plena Cu-
ria sedens, viso et audito brevi prædicto, libros suos lo-
quelam prædictam tangentes immediate clausit, surrexit
& festinans ab hundredo illo, una cum omnibus libris
illis & omnibus factis ejusdem hundredi adtunc & ibidem
existentibus assumpsit secum, & indilate recessit, & præ-
ceptum dictæ domine reginæ in dicto brevi specificatū
adtunc et ibidem fieri executum omnino denegavit & con-
tradixit, & libros prædictos indilate adtunc et ibidem à
visu meo vi & armis manuorū abstulit & rescussit, per
quod executionem istius brevis ad præsens facere non
possum.

Plegii de prof. J. D; R. R.

Residuum verò executionis istius brevis patet in quadam *Adigas ad*
scedula huic brevi annexa. *cur'.*

Summi J. D; R. R.

Virtute istius brevis huic scedulæ annexi tali die & an- *Scedula*
no &c. assumptis mecum R. T; J. B; R. C; et W. P. iiij.
discretis & legalibus Militibus ballivæ meæ, accessi ad
curiam E. Ducis B. de K. in brevi prædicto nominat', &
in plena curia illa petii à ballivo & sectatoribus ejusdem
curiæ recordari loquelam, quæ fuit in eadem curia
per parvum breve domine Reginæ de Recto inter R. T.
petentem, & T. B. tenentē, de uno mesuagio &c.

Hundred' E. B. Armigeri tenē ibidem per W. B. se- *Mill'*
neschallum suum ibidem, coram J. T. & R. C. &c. secta-
toribus curiæ hundredi prædicti, decimo die M. anno, &c.
inter alia sic continetur.

J. S. generosus queritur versus R. G. in placito captio- *Loquela*
nis & injustæ detentionis averiorum sive cattallorum.

Pleg. de prof. ac de aver' retorni, si &c. A. B. C. D.

Nomina quatuor legalium hominum hundredi ex illis
qui recordo illi interfuerunt A B C D E F G H.

Virtute istius brevis mihi directi in forma infrascripta, *De Recordis*
accessi ad curiam infrascriptam, et in plena curia illa *deliberant*
recordari feci loquelam infrascriptam. Et recordum *in curia*
illud (prout patet in scedula huic brevi consultā) *habeo*

habeo coram Justiciariis infrascriptis ad diem et locum infra contentum, sub sigillo meo et sigillis J. B. &c. xxiii. proborum et legalium hominum de balliva mea ex illis qui recordo illi interfuerunt, et partibus &c. [ut antè.]

*Aliter, si le
Record ne
soit deli-
ver.*

Virtute istius brevis mihi directi, in propria persona mea (assumptis mecum J. S. &c. probis & legalibus Militibus de comitatu meo) accessi ad curiam J. D. Armigeri, ad recordandum loquelam infrascriptam, ad diem & locum infracontentum, prout interius mihi præcipitur. Super quo Sectatores curiæ prædictæ apud villam de C. in plena curia mei infrascripti vicecomit' ad dictum breve ibidem exequendum, aut de loquela prædicta aliquo aliter intermittend' penitus denegaverunt, ob quod executionem brevis prædicti minimè facere potui.

*Falso judi-
cio.*

Virtute istius brevis (assumptis mecum P. M. &c. quatuor legalibus Militibus de comitatu meo) in propria persona mea accessi ad Curiam E. tentam apud N. tali die & anno. Et in partibus curiæ illius ab A. B. &c. sectatoribus ejusdem curiæ, & R. H. Seneschallo ibidem, petii recordum loquelæ quæ est in eadem Curia, per parvum breve dominæ Reginæ de Recto, inter J. P. petentem & N. S. tenentem fieri & mihi liberari. Qui quidem Seneschallus & sectatores, recordum illud inde mihi liberare noluerunt. Ob quod executionem dicti brevis minimè facere potui.

Process in Common Bench.

*Original in
det.*

PLeg. de prof. J. S. R. M.
Sum infrascripti J. S. P. M. R. S.
J. D. Miles vice'

Pleg. de prof. J. D; R. R.

Infranominatus A. B. nihil habet in balliva mea per quod summi potest.

Clericus;

Virtute istius brevis mihi directi Justiciariis infrascriptis certifico quod T. H. infranominatus clericus est beneficiatus in Episcopatu London, nullum habens laicum secundum in balliva mea, ubi potest sum.

Note, That the Defendant is alwayes to be summoned fifteen dayes before the day of the Return of the writ.

Pleg.

Pleg. de prof. J. R. R. D.

J. E. infranominatus nihil habet in balliva mea per quod attachiari potest. *Oris. in trespass.*

Pleg. infranominat. J. D. J. W. R. R.

J. D. infranominatus attachiatus est per unam pacellam precii x. d. vel per unam vaccam precii x. s. *Attach- meat.*

J. F. quæ fuit uxor D. C. infranominati non invenit mihi plegios de prof. Idco ad executionem istius brevis nihil per me actum est. *Attach. sur appel.*

Infranominatus A. B. attachiatus est per centum oves precii xx. li. *Ejectione Firme.*

Infranominatus C. D. & E. F. nihil habent in balliva mea per quod attachiari possint.

Infranominatus J. S. non est inventus in balliva mea. *Capias in debito.*

Infranominati J. S. & J. H. nec eorum alter inventus est in balliva mea.

J. S. & cæteri defendentes infranominati non sunt inventi in balliva mea. *Aliter.*

Id this writ may be returned divers Returns, and in divers manners, that is, if the Sheriff will not serve the writ, or if he will not execute the writ, then so;

A. S. infrascriptus non est inventus in balliva mea post receptionem istius brevis, vel post adventum hujus brevis. *Aliter.*
But if he be present, then so;

Virtute istius brevis cepi L. W. infrascriptum, cujus corpus coram Justiciariis infrascriptis ad diem et locum interius content habeo paratum, prout breve istud exigit & requirit &c.

Infrascriptus J. W. captus est per corpus suum, cujus corpus ad diem &c. habeo paratum, prout interius mihi præcipitur, vel secundum exigent hujus brevis. *Aliter.*

Virtute istius brevis mihi directi cepi corpus infranominati J. S. cujus quidem corpus coram Justiciariis infrascriptis ad diem & locum infra content paratum habeo prout interius mihi præcipitur, vel prout istud breve in se exigit & requirit. *Aliter.*

Infrascriptus J. S. captus est per corpus suum, cujus corpus ad diem & locum infra content paratum habeo prout, &c. *Aliter.*

R. S. infranominatus non est inventus in balliva mea, Et quo ad capiendum J. F. infranominatum, mandavi R. S. ballivo libertatis de S. qui plenum retorum habet *Alit' ball' libert'.*

omnium brevium, et executiones eorundem, cui executio istius brevis totaliter pertinet facienda, extra quā libertatem nulla executio istius brevis inde per me fieri potest. Qui quidem ballivus mihi sic respondet, quod cepit corpus prædicti I. F. cuius corpus prædicti corā Justiciariis dominæ Reginæ infra scriptis ad diem & locum infra contentum paratum habebit, vel sic: Qui quidem ballivus nullum mihi dedit responsum.

Liber.

I. D. infranominatus fugit ad libertatem I. E. armigeri & continuè ibidem moratur, adeo ut ipsam capere non possum.

Sanctuar.

Ante adventum istius brevis mihi directi, I. S. infranominatus intravit sanctuariam sancti Petri Westm in comitatu Midd', & in eodem comitatu adhuc moratur, per quod corpus prædicti I. S. coram Justiciariis infra scriptis ad diem et locum interius specificat habere non possum, prout &c.

Aliter

Virtute &c. cepi corpus A. B. infra nominati, & ipsū ad gaolam Dominæ Reginæ castri sui de D. commisi, ibidem salvò custodiend' &c. qui postea, prætextu cujusdam alterius brevis dictæ dñæ reginæ mihi directi, et huic brevi annexi à prisoa illa deliberari feci.

Aliter

Postea, viz. tali die & anno pretextu cujusdam alterius brevis dictæ dominæ Reginæ mihi directi, cujus transcriptū vobis mitto huic brevi annex. Et ideo corpus prædicti A. B. coram Justiciariis infra scriptis ad diem & locum infra contentum habere non poss. prout interius mihi precipitur.

Lati.

Virtute &c. Cepi corpus L. C. infranominatū, cujus corpus coram domina Regina ubicunque tunc fuerit in Anglia ad diem & locum infra contentum paratū habeo prout interius mihi precipitur.

And if the Defendant which is so taken, be sick in Prison, or if the Sheriff will be at no cost to remove him to *Westminster* before the Justices, according to the contents of the Writ; then so,

Languidus

Virtute istius brevis A. B. infra scriptū captus est in corpore suum, & in tali prisoa sive gaola adeo languidus decensus, quod corpus ejus ad diem & locum interius contentum habere non possum absque mortis periculo.

Aliter

Virtute istius brevis mihi directi cepi corpus infranominati I. S. qui quidem I. est in prisoa dominæ Reginæ de F. adeo languidus, quod ob metum mortis ipsum coram

Justic

Justic' infrascriptis ad diem & locum infra content. habere non possum, prout interius mihi precipitur.

Qui quidem J. tantis vexatur infirmitatibus, quod ipsum sine magno moris periculo, ac propter corporis sui debilitatem coram Justiciariis infrascriptis, ad diem & locum infracentos habere non possum, prout interius &c.

Aliter

R. D. infranominatus captus fuit per J. C. Constabularium villæ de D. apud T. in comitatu D. pro suspicionem felon. & ea de causa in gaola predicta sub custodia mei detentus fuit, & in eadem gaola adeo languid' est, quod nullo modo laborare sive curari potest: vel sic, Cujus corpus paratum habeo coram vobis ad diem & locum infracentos, ad faciendum quod istud breve in se exigit & requirit.

Aliter pro felonia

Aliter

Virtute istius brevis vobis certifico, quod postquam istud breve mihi liberatum fuit ad capiendum R. T. & alios def. in isto brevi specificat, idem R. & alii infranominati protulerunt mihi breve dominæ Reginæ de Superfedeas, quod huic brevi est consue, virtute cujus Superf. omnino.

Superf. sum. cap.

Virtute istius brevis mihi directi cepi corpus infranominati B. D. qui postea protulit mihi breve dominæ Reginæ de Superf. mihi directi, & huic brevi consue. Ideo corpus suum coram Justiciariis infrascriptis ad diem & locum infracentos habere non possum prout interius mihi precipitur:

Superf. post Cepi corpus

And if upon this Writ there be sent another Writ, which is called a *Habeas corpus*, then thus:

To have his Body, and the Body with the Cause.

¶ Virtute istius brevis vobis certifico, quod ante adventum istius brevis, virtute cujusdam alterius brevis mihi prius directi, A. B. infrascriptus in prisiona castri dominæ Reginæ de E. extit, ac ibidem languidus & infirmus jacebat, & in eadem prisiona adhuc languid' & infirmus jaceret, ita quod ipsum ob mortis metum curare non possum. Ideo corpus dicti A. B. ad diem infra content' habere non possum, &c.

Languidus

And in these Writs there are divers manner of Returns, and divers of them are so.

Vir-

Virtute istius brevis vobis certifico, quod ante adventum istius brevis W. B. infrascriptus captus fuit in alio loco, & prisonæ dominæ Reginæ de N. commissus, virtute ejusdam alterius brevis mihi prius directi, cujus transcriptum vobis mitto huic brevi consuetum, attamen corpus ipsius W. coram vobis promptè habeo ad diem & locum infra contentum, prout interius mihi precipitur, &c.

Trespas.

Nos vic' præd' vobis significamus, quod ante adventum istius brevis domine Reginæ nobis directæ, & huic brevi consuetæ, J. F. de T. in dicto brevi nominatæ, captus fuit in tali loco, & prisonæ dominæ Reginæ de W. commissus pro xx. li. de dampnis T. C. de N. in placito trās, in Curia dominæ Reginæ in dicta Civitate E. coram nobis dict' vic' tenet adjudicatis. Et similiter idem Joh. detentus est in prisona prædicta ad sectam W. S. in placito trās coram nobis dict' vic' in cui' prædict' habito & prosecutus, attamen corpus &c. [ut in prox. nō retorno antè, &c.]

Felony.

Virtute istius brevis vobis significo, quod ante adventum brevis dominæ Reginæ R. A. in dicto brevi nominatus captus fuit in L. & prisonæ dominæ Reginæ de W. pro suspicionem communis latronis commissus. Et ulterius idem R. detentus fuit in eadem prisona, pro eo quod ipse pro diversis felonis per ipsum factis & perpetratis apud D. in hundred de A. indictatus est, ut informatus sum. Et alia vice captus armatus apud I. in comitatu tali, ductus fuit prisonæ dominæ Reginæ, ductusque A. eandem prisonam dominæ Reginæ felonice fregit & ab ea recessit ut dicitur. Attamen corpus ipsius R. [ut supra &c.]

Excom.

Virtute &c. vobis certifico quod ante adventum, ejusdem brevis A. W. infra nominatæ, per censuram ecclesiasticam in ecclesia de N. tali die & anno &c. propter suam contumaciam, vel similia, excommunicatus existit; ipse A. per Ordinarios sancti Martini ecclesiæ Justic' in premis adhuc residet in eadem curia excommunicatus, & hæc est causa captionis & detentionis præd' A. Attamen corpus ipsius A. W. coram domina Regina ad diem & locum infra contentum ubicumque fuerit habeo paratum, prout, &c.

Ante adventum istius brevis, C. D. infra scriptus, fuit in tali loco, & prisonæ dominæ Regine de R. Commissus, pro suspitione confactionis monet Regine, & ea de causa, & non alia, in eadem prisona detentus est. Attamen ipsum C. D. coram vobis ad diem & locum infra content promptum habeo, prout interius nūhi precipitur.

Cont'monet

B. W. captus fuit apud D. in comitatu E. per H. S. Seneschall' T. F. & coram prefato Seneschall' hundr' cent' &c. indictatus fuit pro morte J. T. per predictum B. occisi, & per prefatum seneschall' missus fuit prisonæ dominæ Regine de R. : quod quidem indictmentum reñi penes prefat' seneschall'. Attamen corpus ipsius B. coram domina Regina in Cancellar' sua ad diem in brevi isto content' ubicunque fuerit &c. habeo paratum prout istud breve in se ex g. & requirit &c. [Sequuntur hic diversæ causæ super reiturnum huius brevis de Corpus cum causa inferent' &c.] Si necesse fuerit, causa captiōis & detentionis A. de B. infra scripte hic subsequitur:

Murder.

Ante B. captus est p. suspitione latrocinii, & quia non potest invenire suffic' securit', ad legem dominæ Regine expectand', prisonæ dominæ Reg. de B. commissus fuit, & in ead' causâ premissa detinet': Attamen corpus dicti A. cor' &c.

Felony.

W. D. infra script' captus fuit ante advent' istius brevis in tali loc', & in prisona dominæ Regine ibidem sub mea custod' detinet', pretextu cuiusdam querelæ in curia dominæ Reg. ibid' coram me præf. vic' super ipsuni, per nomen W. &c. ad fecit talis in placito compos' affirmat', unde in eadem cur' coram me dict' vic' partes præd' plicaver', & posuer' se super jurat' patriæ in eadem cur'. Et postea dictus W. de D. pro suffic' manuc' ad rñd' præfar, tali de placito præd', dimissus fuit ad largum à prisona præd'. Et quia dictus W. post manucap' præd' ad iudicium non rever' custodit, corpus ejus ad diem & locum infra content' habere nōn possum.

Accomp't.

Infrascript' J. C. appellatus fuit apud W. coram tali Judic' per W. probatorem tali die & Anno, pro diversis proditionibus per ipsum perpetratis, & ex illa causa captus fuit in C. & commissus prisonæ dominæ Regine de N. Attamen corpus &c. ad diem & locum infra content' prompt'

Treason.

utlag.

promptē habeo prout interius mihi precipitur &c.

A. fil' A. de B. per nomen A. de B. ante advenē istius brevis jutlagas fuit de felon' cor' P. S. R. T. et soc' suis Justic' dominæ Reg. ad pac' in tali libertate, vel in com, conservand', & postea per preceptum dictorum Justic' mihi modo direct', idem A. captus fuit apud D. & causa preposita, commissus prisonæ dominæ Reg. de W. Attamen &c.

Supplicavit

Virtute istius brevis vobis certifico quod A. W. infra-
scripē, capē fuit virtutē ejusdam alter' brevis dominæ
Reg. vocat' Supplicavit ad sectam D. P. diu ante advenē
istius brevis, & commissus prisonæ dominæ Regine de
B. pro eo quod non potuit suffic' inveniri securitatem de
pace gerend' erga dict' D. & hac de causa, & non alia in
dict' prisona detinet'. Attamen &c.

Regula

Aliter potest dici quod condemnas in tali cur' ex cognic'
sua propria, vel per taxationē suam per cons. curiæ.

Cap' utlag.

Ante advenē istius brevis, virtute ejusdam alterius
brevis voc' Cap' utlag, mihi direct', ejus transcripē vobis
mitto presentibus annex. cepi C. D. infranominat' ipsū-
que prisonæ dominæ Reg. de C. commissi, & adhuc in
eadem detinet' prison' causa pmissa. Attamen corpus &c.

Accompo

Ante advenē istius brevis A. H. S. Auditores compu-
torum W. de B. mihi per indent' deliberat', corpus R.
S. infra-
scripē salvo & secure custodiendum quousque sa-
tisfac' W. B. de CC. li. arre' super fine compoti R. S. per
dict' Auditor' invenit' &c. & hæc est causa captiōis & de-
tentionis ipsius R. S. Attamen corpus &c.

Dette

Multis modis potest dici capus & detentus pro de bi'
x. li. versus ipsum recuperat' in tali cur', vel capus est
per precept' dominæ R. vel super recognitionem fact' in
cancell' & appell' pro morte hominis, vel de roberia
&c.

Rescous

Infrascriptus R. V. captus fuit apud D. x. die M. Anno
infra-
scripto, per T. P. ballivum dominæ Regine & mei,
virtute ejusdam warranti pretextu hujus brevis per me
facti, & sibi direct'. Et super hoc prædict' R. V. cum
aliis ignotis vi & armis, viz. baculis &c. in dictum balli-
vum insultum fecit, & seipsum à custodiis prædict' ballivi
rescuss. & nunquam postea eundem R. V. in balliva mea
invenire potui.

Aliter

Executio istius brevis patet in quadam scedula huic bre-
vi annex.

Virg.

Virtute brevis dominæ Reginæ mihi directi, & huic *Scedula*
 scedula annex. feci quoddam warrant meum cuidam
 J. M. ballivo meo itinerantē, ad capiendū & arrestandū E.
 G. in dicto brevi nominat, secundū exig. ejusdem brevis.
 Qui quidem ball' meus virtute warrant mei prædicti ix.
 die J. Anno Regni dominæ Elizab. Reginæ infrascriptē
 xx. apud D. in com' prædicti cepit & arrestavit corpus
 prædicti E. G. Et adtunc & ibidem ipsum E. G. in cus-
 todia sua fuit, super quo F. G. de D. prædicti in com'
 prædicti gen, & T. M. de eisdem villa & com' gen, adtunc
 & ibidem vi & armis &c. in prædicti ballivum meum
 insultū fecerūt, & ipsum ball' meum adtunc & ibidem con-
 tra legem & consuetud' Regni dictæ dominæ Reginæ
 Anglæ & contra voluntatem ipsius ball' mei impriso-
 naverūt, & ipsum ballivum meum in prisona ibidem
 per spacium unius horæ adtunc detinuerūt, & xx. dena-
 rios in pecuniis numeratis, de bonis, catallis, & denar'
 ipsius ballivi mei à persona ipsius ballivi mei adtunc &
 ibid' præd' T. M. cepit, ac præfat' E. vi & armis præ-
 dicti adtunc & ibidem à custod' dicti ball' mei cepit &
 rescussit. necnon eadem E. seipsam adtunc & ibidem à cus-
 tod' ejusdem ball' mei rescussit, contra voluntat' dicti
 ball' mei, & contra pacem dictæ dominæ Reginæ nunc,
 &c. Et postea eadem E. non est inventa in balliva
 mea.

Virtute istius brevis mihi directi feci quoddam war- *Aliter*
 rant meum cuidam R. P. ball' meo hac vice itineranti, ad capi-
 endū & arrestandum infranonū T. L. secundum exi-
 gentiam istius brevis. Qui quidem R. P. virtute war-
 rant prædicti, postea scilicet ij. die Maij, Anno Regni
 dominæ Reginæ infrascriptē xx. apud B. in comitatu præ-
 dicti cepit corpus infranonū T. L. de B. prædicti in comi-
 tatu prædicti F: Qui quidem T. die, anno, & loco su-
 pradicti, vi & armis in præf. R. P. ballivum meum præ-
 dicti insultum fecit, & ipsum verberavit, vulneravit, &
 male tractavit, Ira quod de vita ejus desperabatur. Ec-
 idem T. adtunc & ibidem à custodia prædicti ballivi
 mei, & contra voluntatem suam recessit, escapiavit, &
 rescussum fecit, contra pacem dictæ dominæ Reginæ nunc,
 &c. Et postea idem T. L. non est inventus in balliva
 mea.

Virtute istius brevis feci quoddam warrant meum *Aliter*
 W. H.

W. H. ballivo hund' de H. qui mihi sic rēderet, Quod i bi ipse virtute warrant' prædict' x. die S. Anno Regni domine Reginæ infra script' xx. apud C. cepit quan' J. S. & ipsam usque in castrum domine Reginæ de W. ducere voluisset, ibidem salvo custodiend': illuc vener' quidam J. T. R. S. cum pluribus aliis ignotis, vi & armis, arraiat modo guerrino, & a custodia dicti ballivi mei apud prædict' W. prædict' J. S. ceperunt & abduxer'. Et sic ob metum mortis suæ, ipsam J. S. evadere permisit. Et ea de causa corpus J. S. prædict' coram domina Regina ad diem & locum infra content', ubicunque &c. habere non possum, prout interius mihi præcipitur. Et ulterius vobis certifico, quod post prædict' decimum diem &c. prædict' J. S. non fuit inventa in balliva mea.

*Aliter de
Rescous &
Riot'.*

Virtute istius brevis, mandavi J. S. ballivo meo libertatis de D. in com' prædict', qui habet plenum return' omnium brevium, præcept' & warrant' sibi inde direct'. Qui quidem J. S. tali die & anno, apud P. in comitatu prædict' T. S. in brevi huius scedulæ annex. nominat', & eidem warrant' suo direct', cepit & arrestavit, & ipsum T. S. in custodia sua occasione prædict' ad tunc & ibidem habuit & tenuit, ibidem tenf'. ac quidam J. C. nuper de S. in comitatu prædict' L. (aggregit eis quamplur' alii malefactor' ignotis, pacisq' domine Reginæ perturbator') ad numerum xx. personar', modo guerrino arraiat', vi & armis, viz. glad', pugionibus, scut', & bac', in ipsum ballivum meum ad tunc & ibidem riotose insul's fecerunt, & ipsum verberaver', vulneraver', & male tractaverunt. Ita quod de vita ejus desperabat', & prædict' J. C. & alii &c. ipsum T. S. extra custod' dicti ballivi mei ad tunc & ibidem ceperunt & rescusser', & ad sui juris ad largum ire permiser', ac idem T. S. seipsum extra custodiam dicti ballivi ad tunc & ibidem similiter rescussit contra pacem dictæ domine Reginæ &c. Et postea idem T. non est inventus in balliva mea.

Aliter.

Ego T. H. miles vic' virtute istius brevis feci quoddam warrant' J. B. & P. D. ballivis meis hac vice itinerantibus ad arrestandum & capiendum R. F. ad satisfaciendum infranominat' W. P. de debis & dampn' infra specificat', prout interius mihi præcipit, virtute cujus warranti, iidem J. B. & P. D. ball' tali die & anno apud H. in comitatu prædict' arrestaver' prædictum R. F. prout per warrantum illud

eis præcipiebatur, ac idem R. F. ac quidem G. F. de G. in comitatu prædicto cum aliis ignotis, vi & armis, videlicet, gladiis, baculis, &c. in prædictos I. B. & P. D. eisdem die & anno, apud H. in comitatu prædicto insultum fecerunt, & ipsos male tractaverunt, & adtunc & ibidem rescussum fecerunt, virtute cujus rescussus, idem R. F. a custodia illa adtunc & ibidem contra arrestationem supradictam rescussus, evasit, & escapiavit. Quapropter præfatus R. F. ad diem & locum infracontentos habere non possum. Et ulterius vobis certifico, quod post eundem diem prædictus R. F. non fuit inventus in balliva mea.

Virtute istius brevis quoddam warrant meum feci & direxi cuidam T. C. ballivo meo ad attachiandum intranominatum I. C. Prætextu cujus, idem T. C. ix. die J. Anno regni dominæ Reginæ infrascripto xx. apud B. in comitatu infrascripto, cepit & arrestavit prædictum I. C. cum coram nie ducere volens & intendens, ad faciendum & recipiendum, prout in isto brevi mihi præcipitur. Et postea videlicet dicto nono die J. anno xx. supradicto, prædictus I. C. nuper de B. prædictus in comitatu prædicto H. apud B. prædictus in comitatu prædicto in prædicto T. C. ballivum meum insultum fecit. Et ab eodem ballivo adtunc & ibidem fugit, evasit, & rescussum fecit. Et postea eundem I. in balliva mea invenire non potui.

Virtute istius brevis Justiciarii infrascripti certifico, quod Returni returni feci infranominatam I. S. illa averia infranominatam habendam W. S. quæ eidem I. S. adjudicata fuerunt ob defectum ipsius W. salvo & secus custodiendum. Ita quod ea præfatus W. ad queremoniam ipsius W. nullo modo deliberent sine brevi dominæ Reginæ, quod de præfati judicio expressa facit mentionem, juxta formam hujus brevis.

Pleg. de prof. & de res inde habendam, si returni inde adjudicetur I. D. R. R.

Virtute &c. replegi. feci infrascripto R. averia infrascripta, prout in isto brevi mihi præcipitur. Et ulterius infranominatam dominæ Reginæ certifico, quod nullum aliud breve de infrascriptis averiis replegi. unquam præter istud breve mihi libera fuit &c.

Ante adventum istius brevis averia & cattalla infrascripta K. quæ W. C. cepit & injuste detinuit ut dicitur, elongata fuerunt per prædictum W. C. Ideo præfatus K. averia & cattalla sua prædicta replegi. non possum &c.

Aliter

Replegi

Replegi. ou
averia
elong. sunt
Nul-

Aliter

Nullum breve de averiis infrascriptū repleg. p̄ter istud mihi unquam libera fuit. Et ulterius dominæ Regine certifico, quod ante adventum istius brevis averia p̄dicta elongata fuerunt, & ad loca mihi incognita transmissa in infranominatum I. T. ita quod ea infrascriptū W. nullo modo repleg. possum, prout interius mihi precipitur.

Aliter

Ante adventum &c. averia infrascripta per infranominatū T. C. elongata fuerunt ad loca mihi incognita, ita quod visum eorundem infranominatū A. H. & T. C. retornandū habere non potui, prout interius mihi precipitur.

Aliter

Virtute &c. (ali die & anno) repleg. feci R. B. infranominatū, averia sua infraspēcificata, quæ infranominatū T. M. & R. S. ceperunt & injuste detinuerunt, secundum formam hujus brevis, prout interius mihi precipitur.

Et infrascriptū T. & R. attachiati sunt per centum oves precii vj. li. per T. F. Ball' per pl'm I. T. & R. M. Et infranominatū R. B. attachiat' est per d'ct' Ball' meum per tres vaccas precii iij. li. per placitum p̄dicti I. T. & R. M. Et nullum aliud mandat' sive breve domine Regine p̄ter istud breve de averiis p̄dictis repleg. ante adventum istius brevis mihi unquam lib' fuit.

Aliter in Cancell.

Virtute &c. dominæ Regine in Cancellaria sua certifico, quod averia & cattalla per infranominatū A. B. prius capti, elongata sunt ex com' infrascriptū ad loca mihi ignota, per infrascriptū T. R. quo averia & cattalla p̄dicta infrasc. R. ret' non possum, prout interius mihi precipitur.

Averia elongata sunt secundum delictum

Ante adventum istius brevis, averia infraspēcificata elongata fuerunt, per infranominatū I. M. ad loca mihi ignota, sic quod averia illa infrascriptū N. M. retorn' non possum, juxta formam hujus brevis.

Pleg. de prosequend' & de retorno habendo &c. I. D. R. R.

Preceptum sunt secundum delictum in Com.

Virtute &c. ego W. A. unus Ballivorum infranominatorum, petii de I. T. & R. N. infrascriptū, deliberationem de averiis T. B. infrascriptū, viz. de tribus bobus precii cujuscumque bovis xx. s. & de duobus equis precii cujuscumque equi xx. s. & renuēre inde facere deliberationem, & p̄dicta averia elongata sunt, ad loca mihi ignota, per quod inde deliberationem facere non potui, prout interius mihi precipitur. Et p̄dicti T. I. attach. est

est per unam crateram argenti, ad valenc' xx. s.

Virtute istius &c. dominæ Reginæ interius nominat *Aliter de*
certifico quod nullum aliud breve vel mandatum dictæ *Homine Re*
dominæ Reginæ, de repleg. infra scriptū J. C. quam W. *pleg.*
S. infranominat cepit & capē tenet, prout interius specif.
quam istud breve de plus repleg. predict' J. ad manus
meas devenit, nec mihi liberat fuit. Nihilominus Ju-
stic. dictæ dominæ Reginæ ulterius certifico quod statim
post receptionem ejusdem brevis, accessi ad prædictum
W. S. de repleg. faciendū prædict' J. quam præd' W. mihi
ostendere noluit, sed prædict' J. ante adventum istius
brevis ad loca mihi incognita elongavit, & post receptio-
nem ejusdem brevis ipse J. non est inventus in balliva
mea, sic quod aliquā repleg. ipsius J. juxta mandat huius
brevis ullo modo facere potui, prout interius mihi
præcipitur.

Nullum aliud breve præter istud de replegiandū infra-
nominat D. G. ad manus meas hucusquē devenit. Et ul-
terius Justic' infra scriptis certifico, quod prædict' D. elon-
gatus est ad loca mihi ignota, per infranominat J. T. J. B.
& T. R ; per quod prædict' D. repleg. non possum, prout
interius mihi præcipitur. *Aliter*

Virtute &c. dominæ Reginæ certifico, quod post recep- *Plus Repleg?*
tionem huius brevis per totam ballivam meam diligenter
inquisivi, & nullo modo mihi constare potest quod aliqua
averia infranominat W. P. capē fuē & injustē detenta
per infranominat J. N. prout in breve supponit, Ita quod
executio istius brevis secundum tenorem & effectum
ejusdem per me fieri non potuit, prout interius mihi præ-
cipitur. Et ulterius dominæ Reginæ certifico quod nul-
lum aliud breve de plus repleg. præter istud breve mihi
unquam delibera fuit.

Conditio &c. quod si suprā obligati A. B. & C. D. *Condic. Re*
redeliberaverint supranominat vic', omnia illa bona & *pleg.*
cattalla, & quālibet inde parcellam, per P. H. capē, &
ratione cujusdam repleg. per prædict' vic' fact' præf. A. B.
& C. D. ; repleg. si retorti inde ac adjudicet, et prædict' vic'
& executores suos indempnes conservaverint, quod tunc
&c.

Infrascript J. H. nulla habet averia in ball' mea quæ in *Withernam*
Withernā cap' possum, secundū exigentiā huius brevis.

Virtute &c. cepi duas ollas areas. &c. de bonis & *Aliter*
M m *cattali*

cattall^o J. H. in isto brevi nominat in Withernam, & ea W. F. infranominat deliberari feci. Habenda eidem W. F. quousque predictus J. H. cattalla predicti W. F. deliberare voluerit, prout istud breve &c.

Aliter

Virtute &c. cepi in Withern apud D. in Comitatu infrascripte ij. vaccas &c. de averiis infranominat J. D. et duas vaccas de averiis R. T. infranominat. Quae quidem averia predicta abinde fugere, & duci feci in quendam locum apud S. in comitatu predicto, Salvo & tecum ibidem custodiend^o, secundum exigentiam istius brevibus averia predicta incumbunt. Et predicti J. H. & R. T. nulla habent plura sive alia averia ad presens in balliva mea, quae ullo modo in Withernam capere possum, prout interius mihi praecipitur.

Aliter

Virtute istius brevis cepi duas vaccas, & duas boviculas de averiis infranominat R. D. & duas vaccas & duas boviculas de averiis T. L. quas deliberari feci J. C. infranominat, salvo & secure custodiend^o quousque alia averia infrascripti ipsius J. C. prius capere, & ad loca mihi ignota, transmissa, deliberare possum, prout interius mihi praecipitur.

Exigent

Virtute istius brevis mihi directi, ad Comitatum meum tentum apud W. in comitatu W. infrascripto, die Martis, videlicet xx. die Janua. Anno Regni domine Regine infrascripte xx. J. C. & alii defendentes infranominati primo exacti fuerunt & non comparuerunt. Et ad Comitatum meum &c. ut ante, secundo exacti fuerunt & non comparuerunt. Et ad comitatum meum tentum &c. tertio exacti fuerunt, & non comparuerunt. Et ad comitatum meum tentum &c. quarto exacti fuerunt, & non comparuerunt. Et ad comitatum meum &c. quinto exacti fuerunt & non comparuerunt. Ideo predictus J. C. & ceteri defendentes infranominati, per judicium Coronatorum dictae domine Reg. comitatus predicti, secundum legem & consuetudinem Regni Ang. utlagati sunt, & quilibet eorum utlagatus est.

*Inter 2.
Viscom.*

Virtute istius brevis mihi directi ad Comitatum meum tentum apud W. in comitatu W. infrascripte die Martis, videlicet, decimo die Janua. Anno Regni domine Regine infrascripte xx. R. L. infranominatus primo exactus fuit & non comparuit. Illud breve sic
supra

superius indorſaſe mihi deliberatum fuit per J. E. armig.
nup. r. Vicecomitem comitatus infraſcripſe, proximum
prædeceſſorem meum in ejus exitu ab officio ſuo, ut
ſuperius in dorſo hujus Brevis. Et ad comitatum &c. ut
ante.

Iſtud breve ſic ſuperius indorſaſe, una cum brevi dicte *Aliter*
dominæ Reginæ de Superſ. ſibi annex. mihi liberaſe fuit
per M. D. Militem, nuper vicecomi Comi prædicti prox.
prædeceſſorem meum.

Virtute &c. Et ad comiſe meum tentum ibidem tertio *Pro defectu*
die Novemb. dicto, anno xx. dominæ Reginæ infraſcripſe *Coronatoris.*
prædicti T. C. quinto exactus fuit & non comparuit. Et
pro defectu W. B. & R. C. coronaſe Comi prædicti ulterius
inde proſequi non potui.

Virtute &c. Et ad Comitatum meum &c. & quod *Pro defectu*
non fuerunt plures Comitæ in comi prædicti tenſe, à die *Com.*
receptionis hujus brevis prædicti, uſquẽ ad diem returni
ejuſdem, per quod nihil actum eſt ad preſens, vel ſic.

Et ideo in executione iſtius brevis ulterius faciendũ nihil
actum eſt.

Allocaſe illis quatuor Comi ad quos J. B. infranomina- *Allocat. Com*
tus exactus fuit & non comparuit. Et ulterius virtute
iſtius brevis ad Comitatum meum tentum apud W. in
comiſe W. infraſcripſe, octavo die Sep. anno &c. infraſcripſe
xx. prædicti J. B. quinto exactus fuit & non comparuit.
Ideo per Judicium Coronatoſe &c.

And if it be a Woman, it ſhall be ſo.

Ideo ſecundum Legem & conſuetudinem prædicti A. R. *Aliter de*
waiviã eſt. *ſeme.*

Virtute &c. Et ad comiſe meum prædictum tentum *Superſ.*
ibidem die Martis, videlicet xx. die A. dicto anno xx.
dominæ Reginæ infraſcripſe, prædicti A. R. quarto exac-
tus fuit & comparuit, & prætulit mihi breve dominæ Reg.
de Superſeã, quod huic conſue eſt, per quod ad execu-
tionem hujus brevis ulterius faciendũ ſuperſeã omnino, vel
ſic.

Ut in prædicto brevi dominæ Reginæ de Superſeã mihi
præcipitur.

Virtute &c. Et ad Comi &c. prædicti J. W. & A. *Reddidit ſe.*
quarto exacti fuerunt, Et prædictus J. comparuit, &
reddidit ſe priſonæ dominæ Reginæ caſtri ſui de E. cujus
corpus coram Juſtic' infraſcripſe, ad diem & locum in-
M n z fracon.

Superfed. fracontentē paratum habeo, prout istud breve in se exigit & requirit. Et prædicti W. & A. non comparuerunt. Et ulterius ad comitatū meum tentum &c. prædicti W. & A. quindō exacti fuerunt. Et prædictus W. protulit mihi breve dominæ Reginæ de Superfed, quod huic brevi est consue, per quod de executione istius brevis ulterius faciendū pro prædicto W. superfedi omnino. Et prædictus A. non comparuit, idēd secundum legem & consuetudinem Regni Reginæ Angliæ utlagat est.

utlag.

Aliter

Superf.

Virtute &c. Et ad Comitatum meum tentum apud W. in comitatu prædicto xij. die Aprilis &c. J. H; R.S; J. C; & omnes alii defendentes subsequentes in isto brevi nominati præter J. H. qui tulit mihi breve dominæ Reginæ de Superfedeas. Ideo quoad eum, ulterius executi faciendū superfed omnino, prout in dicto brevi de Superfedeas mihi præcipitur.

Reddidit se.

*Mortuus
waiciat*

Et præter R. S. qui redit se prisonæ dominæ Reginæ de F. infra com prædicto W. cujus corpus coram Justiciariis &c. Et etiam præter J. C. qui mortuus est, non comparebit. Ideo per judicium &c. Et præd J. C. waiciat est in pſentia F. W. & J. C. coronatorum dictæ dominæ Reginæ com prædicto.

Aliter

Quoad exigendū, capiendū, utlagandū seu in aliquo molestand. infranominat P. T. virtute istius brevis, Justiciariis dominæ Reginæ infraſcripſe, ad diem & locum infrancontentos certifico, quod virtute cujusdam alterius brevis dictæ Dominæ Reginæ mihi directi huic annexi superfed omnino, prout per breve illud mihi præcipitur.

Languidus

Virtute &c. J. B. et ceteri defendentes infranominati secundo exacti fuerunt, & prædictus J. B. comparuit, et se reddidit prisonæ dictæ dominæ Reginæ de F. infra com W. prædicto, & in eadem prisona remanet languidus variis infirmitatibus detentus, ita quod propter corporis sui debilitatem & mortis periculum laborare seu curari non potest, per quod corpus prædicti J. B. coram Justiciariis infraſcriptis ad præſens habere non possum, juxta formam hujus brevis. Et infranominati J. P. et R. R. quindō exacti non comparuerunt. Et quia ad nullum eorum com comparuerunt, prædicti J. P. & R. R. secundum legem & consuetudinem regni Angliæ utlagati sunt, & uterque eorum utlagatus est, prout istud breve in se exigit & requirit.

Ad

Ad Comitatum &c. primò, secundò, tertio, quarto, exactus fuit & comparuit, & reddidit se prifonæ Dominæ Reginæ de C. ubi tam languidus exiftit quod ob merum mortis ipfum coram Jufticiariis infraſcriptis ad diem et locum infracontentos habere non poſſum.

Virtute iſtius brevis mihi direct' ad Comitatum meum W. tentum apud W. in comitatu W. infraſcripſe, die Martis viceſimo die M. anno regni dominæ Reginæ infraſcripſe viceſimo primo, proclamari feci. Et ad Comitatum meum W. tentum apud W. prædicte in dicto comitatu W. die M. viceſimo de M. prædicte, anno viceſimo dominæ Reginæ infraſcripſe, ſecundò prociamari feci: Necnò ad generalem ſeſſionem pacis tentā apud W. in dicto comitatu W. in partibus de M. infraſcriptis, die Jovis ſcilicet xij. die Septembris prædicte anno viceſimo dominæ Reginæ infraſcripſe, publicè proclamari feci, quòd J. C. & ceteri omnes defendentes infranominati ſe reddant infraſcriptis vicecomitibus L. ita quòd iidem vicecomites habeant corpora eorum coram Juſticiariis infraſcriptis ad diem & locum infracontentos, prout iſtud breve in ſe exigit & requirit.

W. H. defendentes infranominatus non fuit inventus in balliva mea poſt receptionem hujus brevis, et pro eo quod idem W. in eadem balliva mea inveniri non potuit, ad comitatum meum tentum &c. proclamari feci quòd prædictus W. ſit coram domina Regina ad Terminum infraſcriptum, ubicunq; tunc fuerit, ad respondendum dictæ dominæ Reginæ, et ulterius, ad faciendū, prout iſtud breve exigit et requirit &c. Et etiam ad comitatum meum tentum &c. proclamari feci, quod dictus W. ſit coram domina Regina ad Terminum predictum ubicunq; &c. ad respondendum dictæ dominæ Reginæ in forma predicta, prout interius mihi precipitur, &c.

*Aliter
Pro reg.*

Infranominatus J. B. nihil habet in ball' mea ꝑ quod poteſt attachiari.

*Venire facit
as.*

Virtute iſtius brevis mihi directi venire feci coram domina Regina apud Weſtm' ad diem infraconē, J. B. ſicut interius mihi præcipitur.

J. F. infranominatus nihil habet in balliva mea, per quod cum venire facere poſſum, nec eſt inventus in eadem.

*Hors deſt
che 1.*

Issues.

Note that in the *Venire facias* no Issues shall be returned, but in *Habeas corpus* and *Distringas*.

The Issues of every one of the five shillings, and that is by the Statute of 35 H. 8. chap. 6.

And also every Writ where the clause (*Si A. fecerit securum de clamore suo prosequendo*), it shall be expressed, the Sheriff may deliv^r the Plaintiff by this return to say.

Infranto A. B. non invenit mihi pleg. de pleguendo istud breve, ideo ad executionem ejusdem nihil p^r me actū est.

*Venire fac.
Quo Dist. ju-
iat.*

Executio istius brevis patet in quodam panello huic brevi confuto; And sometimes in the Panell thus.

Juratores inter K. T. querentem, et W. def. in placito transgressionis. And then write the Names of the Jury, twenty four, A. B. C. &c. and underwrite thus.

Quilibet Jurat^r predict^r per se separatim attachiatur est p^r pleg. J. D; R. R. but in Distresse.

Exitus cujuslibet eorum v. s.

And note, that in the first *Venire facias* of the Jwors, it is not very material to put in *Manucaptors*, for that you will make (by this mainprise) the Jwors to lose issues in the Kings Court, which is not required at the first time.

*Habeas cor-
pora en det.*

Executio istius brevis patet in quodam panello huic brevi confuto.

Jurat^r inter A. B. querentē C. D. def. de placito debiti A. B. &c.

Quilibet Juratorum predictorum per se separatim manucap^t est p^r placitum J. D; R. R.;

And in this Writ you need not return Issues, nor in *Decem*, or *Octo Tales*, nor you ought to return (*Manucaptors*); which note, notwithstanding, it is used in divers parts of England, though void.

Also the Sheriff may return (*Tarde*) upon a *Distringas*, and upon the (*Decem Tales*) as it appears in the following, and then the Jwors shall not lose Issues, which note.

Tard.

Quoad *distringendum* Johannem M. & alios Juratores *infrascriptos*, essend^r coram Justiciariis &c. die & loco *infrascriptis*, vobis significo, quod istud breve adeo *tardē* mihi liberatum fuit, quod illud propter temporis brevitate[m] exequi non possum ad præsens. Sed de novo apposui *decem tales*, vel *octo tales* (ut patet in sequentibus) prout in isto brevi mihi præcipitur &c. A. B. C. D. E. F. &c.

Sed

Sed quoad decem tam Milites quam alios probos & legales homines de visneto infracontento inter Juratores intracontentum ponendū. Executio istius brevis patet in quadam scedula huic brevi consue.

Pleg. de prof. J. D; R. R.

Sum infrañ R. F; J. D; R. F.

Manucapē sum præd, & utriusque eorum N. P; J. L; J. D; R. R.

*Has cor-
pora in at-
taint*

Residū executi istius brevis patet in quodam pannello huic brevi annex.

Nomina 24. militū inter R. S. quer, & R. F. def.

Pannel

A. B. C. D. E. F. ad numerum 24.

Sum Jur prædic, & eorum utriusque

J. D; R. F.

Manucapē sum præd, & eorum utriusque, J. P; R. C; F. D; E. G;

Nomina Jur primæ inquisitionis (unde in brevi huic scedula annex.) sit mentio. J. D; B. C; ad numerum 12.

Nomina]

Sum Juræ primæ inquisitionis, & eorum cujuscumque.

J. D; R. R.

Manucapē sum præd, & utriusque eorum. J. L; H. P; R. S; T. U;

Peg. de prof. J. E; R. R.

Infrañ W. B. sum est per A. H; R. P.

Manucapē sum præd, & eorum utriusque

J. H; R. D.

Residuum executi istius brevis patet in quiescā pannello huic brevi consue.

*Alit' sur
brise origi-
nal in le
Chauncery*

Nomina 24. militū inter R. E. quer. & T. S. def. A. B. &c. ad numerum 48.

Pannel.

Quilibet militū præd separatim per se sum est per J. D; R. R.

Quorum quilibet separatim per se manucapē est per A. B; C. D; E. F; G. H;

Nomina Jur primæ inquisitionis A. B; C. D; ad numerum 12.

Quilibet Jur prædictorum primæ inquisitionis separatim per se attach. est & manucapē per pl'm J. D;

R. F.

Nomina Jur de circumstañ de novo apposit, inter J. S. querent, & W. B. defendent, juxta formam statuti in hujus nodi casu editi & provis. A. B; C. D. &c.

*Ret' de par-
tial de Cir-
cumstañ*

Aliter

Nomina Jur de circumstante de novo impannellati, & retorn per mandatu Justic ad requisitionem que pro defectu Jur superius nominati, minime comparere, secundum formam stat nuper inde provis. A. B. &c.

Manuc' infra J. F; J. D; R. R.

Exiē. iii. s. iiii. d.

Distres

*Lou le def.
nad terres
Vres plusors*

J. F. infranoni nihil habet in ball' mea per quod, nec ubi potest distringi.

xl. d. xl. d.

T. D; A. R. &c. districti sunt, & quilibet eorum districtus est per terr' & catē sua secundum formam hujus brevis, unde exitus prout patet superius in eorum capitibus. Et manucapti sunt, & quilibet eorum manucaptus est per se, vz. per J. D, J. S, P. H, quod sint, & eorum quilibet sit, ad diem & locum infra. juxta tenorem hujus brevis &c.

*Vers execu-
tors*

xl. d.

A. quæ fuit uxor B. infra. executrix testamenti præ. xl. d.

B. R. alius executor testamenti prædicti, & T. S, tertius executor testamenti prædicti B. districti sunt, & eorum quilibet per se separatim districtus est, juxta formam hujus brevis, unde exitus prout patet superius in capitibus eorundem. Et eorum quilibet manucaptus est per se, vz. per quatuor manucaptos, nomine A. B. &c. Et non sunt plures executores testamenti ejusdem B. nec heredes ejus, seu terrarum & tenementorum quæ sua fuerunt in comitat' W. prout aliquo modo ad præsens constare mihi potest.

Pleg. de prof. J. D, R. R.

*Favor del
vic. sur le
3. ou 3. dist.*

A. B. infra, nihil habet in balliva mea ultra exitu prius per me forisfactum, per quod nec ubi distringi potest, nec mihi aliquo modo constare potest, ad præsens.

Vers cler'

W. D. Archidiaconus R. nihil habet in balliva mea de laico feodo per quod, nec ubi distringi, premunire, seu attachiari potest aliquo modo, ad præsens mihi constare potest.

Sur tarde

Quoad distringendū infra. A. B. essendi coram Justic' infra. ad diem & locum infraconē, istud breve adeo tardū mihi delibera fuit, quod propter temporis brevitatem executionem inde facere non potui.

*Aliter sur
Jur.*

Quoad distringendū R. L. & omnes alios Jurat' infra. essendi

effendi coram Justic' infrascriptis ad diem & locum infra-
content, istud breve adeo tarde mihi deliberafuit quod
propter temporis brevitatem executionem inde facere non
potui, sed quoad apponendū decem tales, execut' inde patet
in quoda in panello huic brevi consuē.

Manucapē infranomiñ J. S; W. P; J. D:

Exitus ejus, dī mare'.

Sunī infranomiñ R. & E. uxoris ejus W. F. R. P.

And so of all other affians real, if the Defendants be suffici-
ent.

Executio istius brevis patet in quadam inquisitione huic
brevi annex.

Virtute brevis dominæ Reginæ mihi difecti & huic
particioni indentaf annex. Ego J. D. miles vic' com præ-
dicf xx. die A. anñ xx. &c. assūptis mecu J. S. &c. xij.
liberis & legalibus homi de com meo, ac de visnef infra.
in presentia H. F. in brevi prædicf nominaf, in propria
persona mea accessi ad testia in dicto brevi nominaf, &
ibidem per eorum sacramentum (habito respectu ad ve-
rum valorem eorund tenementorum cum pertinef) ea-
dem testia in partitionem in tres partes æquales parti-
ci, & unam partem earundem trium partiū, viz. xij. pe-
des in longitudine, & xvij. pedes in latitudine messuagii
in prædicf brevi specificaf, extendē ad terram F. G. vocaf
B. versu le West. & 34. pedes in latitudine, & xij.
virgaf in longitudine, & unius gardini in breve prædicf
specificaf eidem messuagio ac j. acū abbuē versu le West.
ad terr prædicf F. G. vocaf B. & terr gleb. r. et of de S.
necnon &c. Et eo præf. vic' prædicf xx. die A. anno &c.
ea deliberari, & assignari feci H. F. in dicto brevi nomi-
naf. Teneñ ei separaliter, secundum formam & effec-
tum brevis prædicf, Ac prout idem breve in se exigit &
requirit.

Quæ quidem integra testia pars prædictorum tene-
mentorum in p ædicto brevi specificatorum, præ ato H.
in forma prædicf deliberaf & assignaf est. Et quoad du-
as partes resid' prædictorum tenementorum in prædicto
brevi specificaf J. F. similiter in eodem brevi nominatus,
ad partitionem prædictam deliberandum & assignan-
dum, Justiciariis Dominæ Reginæ in brevi prædicto
specificaf certifico, quod nullus ex parte ipsius J. venit ad
recipiendum de me præfato vic' easdem duas partes. Ita
quod

Aliter præ
homag.
Partic.

Aliter.

quod duas partes illas præf. I. liberare & assignare non potui, prout breve prædict. in se exigat & requirit. In cuius rei testimonium tam sigillum meum præf. vic. quam sigilla præf. xij Jus huic partitioni indentat sunt appens. Dat. die & Anno supradictis.

*Ass. Nova
diff.*

Pleg. de prof. J D. R R.
Infras. J S. & R B. attach. sunt & quilibet eorum attach. est per pleg. J D. R R.

Residuum executionis istius brevis patet in pannello huic brevi consu.

Panell.

Ass. no. diff. inter talem quer., seu petentem, & talem defendent., seu teñ in placito &c.

A B C D. &c. ad numerum xxiiij.

Nomina Recogn. J P. & T W.

Sunt J D. T. B.

Manucap. sunt prædict., & eorum cujuslibet J. S. J. D.

Aliter.

Pleg. de prof. G C. R R.

R H. infranominat attach. est per unum laicem de latine, precij viij d. per pl. W D. & T D.

Resid. executionis hujus brevis patet in quodam pannello huic brevi annex.

Panellum.

Recogn. ass. no. diff. inter J D. quer. & R T. deforc., de libero tenito suo in B.

J D. &c. ad numerum xxiiij.

Sunt Jus præd., & eor. cujusl. J S. T D.

Manucap. sunt præd., & eorum cujuslibet J B. T C. A B. & W H.

Aliter.

Executio istius brevis patet in quodam pannello huic brevi annex.

Nomina Recognitorum in assisa novæ disseisine inter A. B. querentem, & L M. defendentem A B. &c. ad numerum xxiiij.

Quilibet recognitorum prædict. per se separatim attach. est per pleg. J D. R R.

Exitus eorum cujuslibet v s.

Nomin. recogn. de novo apposit. juxta formam Statuti A B. &c. ad numer. x.

Quilibet recogn. prædict. de novo apposit. attach. est separatim per pl. J D. R F.

*Ground
Cape.*

Virtute istius brevis x. die M. anno infrascript. per visum R H. & T H. proborum & legalium hominum de

concedo, cepi in manus dñæ Reg. terras infrascriptæ, prout interius mihi præc. Sum J D. R R.

And if the Writ be sent to the Sheriff, and the place where he ought to execute it, be within the Franchises, which hath full return of all Writs, then so.

Executio istius brevis &c. ut ante.

Ego T. S. vic' E. mandavi J W. ballivo libertatis de B. in con' præd', qui habet plenum return omnium brevium, & executionem eorundem infra libertatem præd', in con' præd'. Et ad quem exec' istius brevis totaliter pertinet faciend', pro eo quod dicta executio inde, alibi in balliva mea extra dictam libertatem fieri non potuit. Qui mihi sic rñdet &c.

Scedula.

Virtute &c. cepi in manus dominæ Reginæ per visum &c. ut ante, de terris & tenementis J M. intranoni, ad valentiam unius messuagii &c. ut in brevi infracontent', tali die & anno, juxta formam hujus brevis, vel prout interius mihi precipitur, vel prout istud breve in se exigit & requirit, vel.

Aliter.

Tertiam partem messuagiorum, gardinorum, & ceterorum præmissorum, prout interius mihi præcipitur.

Aliter.

Executio istius brevis patet in quadam scedula huic brevis annex.

Dote.

Virtute &c. & huic scedulae annex. tali die & anno, habere feci J B. vid' in prædict' brevi nom'n, plenariam seisiñam de tertia parte manerij de B. cum pñ in eodem brevi specificat' vz. &c. [*and rehearse the particulars ut in brevi*]. Tenend' præf. J B. in separalitate per metas & bondas nomine totius dotis ipsius J. ipsam J. conting. de toto manerio in dicto brevi spec' prout per breve præf' mihi præcipitur.

Scedula.

Virtute &c. tali die & anno, messuagia sive tenementa infrascripta reseisiri feci, & G. C. infrañ in plenaria possessione eorundem messuagiorum sive tenementorum cum pertinentiis, juxta vim, formam, & effectum statuti infrasphecificat' poni feci, prout interius mihi præcipitur.

Reseisure.

Virtute &c. sum feci A. B. militem, unum milite de con' meo gladio cinctum per B. T. & C. B. quod sit coram Justiciariis infrascriptis ad diem & locum infranoni, prout istud breve in se exigit & requirit.

Sum. Militis.

Manucapē

Manucapē infranominat A B. BT. & CB. JD, R R.

Exitus cujuslibet eorum xx s.

*Scire fac.
sur appar.*

Virtutē &c. scire feci infranominat A B. & C. D. quod sint coram Justic' domina Regina infra scriptis, ad diem & locum infracontentē, ad respondend' R. H. infranominat per J. H. & R. S. probos & legales homines de balliva mea.

*Ad audiend
recordum.*

Virtute &c. scire feci T. A. & E. uxori ejus infra scripte per J. J. & R. T. quod sint coram domina Regina ad diem infra scriptum ubicunque &c. ad audiend' record' & processum, unde istud breve facit mentionem. Et ulterius ad faciend' & recipiend' omnia & singula, prout istud breve exigit.

Nihil

A. B. infranominat nulla habet terras seu tenementa, bona seu cattalia infra ballivam meam, ubi ei scire facere possum, prout istud breve &c. nec est inventus in eadem.

*Vers execut
ou administ.*

Virtute &c. scire feci W. B. administratori bonorum & cattallorum, quę fuer' T. P. infranominat per W. G. & G. K. probos & legales homines de balliva mea, effendi coram domina Regina vel Justic' ad diem infranominat, neque plures administratores aliquorum bonorum & cattallorum quę fuerunt ejusdem T. P. in balliva mea, quibus aut cui ad præsens scire facere possum.

*Sur tresp.
vilag.*

Virtute &c. scire feci T. V. infranominat, quod sit coram Justic' infra scripte, ad diem & locum infracontentē per J. S. & R. G. ad faciend' ea quę istud breve in se exigit & requirit &c.

Cancell.

Virtute &c. scire feci W. C. militi infranominat, quod sit coram domina Regina in Cancellaria sua, ad diem infracontentē, ubicunque tunc fuerit in Anglia, ad ostendend' & proponend', prout istud breve in se exigit & requirit, per J. M. & W. D. probos & legales homines ballivę meę, juxta formam hujus brevis.

*Coram do-
mina Reg.*

Virtute &c. scire feci J. C. infranominat, quod sit coram domina Regina xiiij. die N. ad ostend', & ulterius faciend' & recipiendum, prout istud breve in se exigit & requirit per A. B. & C. D. probos & legales homines de balliva mea, juxta &c.

*Cor. Inft. de
hanco.*

Virtute &c. scire feci J. C. infranominat, quod sit coram

ram Justiciā infrascriptē, ad diem & locum infracontenē, offensus si quid pro se habeat vel dicere seiat, quare infrascriptē W. H. & R. F. executionem pro debito & dampnis (prout interius fit mentio) versus præfatē J. C. habere non debent, prout breve istud in se exigat & requirit, per J. W. & R. C. probos & legales &c.

Virtute &c. tali die & anno &c. cepi in manus dominæ Reginæ tenementa infrascripta cum pertinentiis. Et ulterius eisdem die & anno scire feci, tam A. B. capitali domino immediatē feod' tenē infrascriptē cum pertinenti, quam infrascriptē H. D. per probos & legales homines de balliva mea, quod sint coram Justiciā infrascriptē, ad diem & locum infracontenē, auditurē recogni infrascript, prout interius mihi præcipitur. Et ulterius eisdem Justiciā certifico, quod non est alius capitalis dominus feod' prædictē mediā, neque immediatē, inter dominam Reginam, & infrascriptē A. B. cui scire facere potui.

Virtute istius brevis mihi direxi fieri feci infrascriptē x li. de terris & cattall' infrascriptē R. W. Quas quidem x li. coram Justiciā infrascriptē ad diem & loc' infracontenē parat' habeo, prout istud breve in se exigat & requirit.

Virtute &c. fieri feci C s. de boni & cattall' infranominat' W. H. quos quidem C s. coram Justic' infrascriptē ad diem & locum infracontenē parat' habeo prout &c. Et ulterius eisdem Justiciā certifico quod executor infrascriptē bona & cattalla infranominat' W. H. restat' penitus devastaver' sic quod summam x. marcarum infrascriptē, nec aliquam inde parcellam fieri facere non possum ad presens.

Infranominat' R. B. nulla habet bona seu cattalla, terras seu tenementa in balliva mea, unde denarios infrascriptificat' fieri facere possum, prout interius mihi præcipitur, nec dictus R. est inventus, neq; est aliqua talis persona in balliva mea.

A. M. infrascriptus, nulla habet bona seu cattalla infra ballivam meam, de quibus executionem istius brevis facere possum, prout &c. nec est inventus in eadem, nec aliqua terras seu tenementa habuit infra eandem quinto die Ja. nec unquam postea, prout patet in quadam scedula huic brevi consuta.

Virtute

*Tou biens
remain in-
vendita.*

Virtute &c. cepi bona & cattalla infraſcriptē A. W. ad valentiam iiij. li. de infraſcriptē octo libris, quę bona & cattalla penes me remanent invendita pro defectu emptorum, quodque prædictus A. W. nulla alia neque plura bona ſeu cattalla, nec aliqua terras ſeu tenementa habet in balliva mea, unde reſiduum prædictarum octo librarum ſeu aliquam inde parcellam ad præſens fieri facere poſſum, nec eſt inventus in eadem.

Aliter.

Virtute &c. Baroñ infraſcriptē certiſico, quod x. die A. &c. cepi de bonis & cattallis, terris & tenementis infraſcriptis W. ad valorem &c. Et de bonis & cattallis, terris & tenementis J. D. &c. ad valorem &c. & illa venditioni expoſui, ad quę nondum inveni emptores, & ideo denarios &c.

Aliter.

Adhuc illa bona & cattalla, quę nuper de bonis & cattallis firmas, occupas & tenent manerij de W. ad valentiam &c. in manus dominę Reginę cepi, pro defectu emptorum remanent invendita. Sed de die in diem venditioni expoſi, & de denariis inde provenientem quam citius potero, vobis reſpondebo.

Aliter.

Illam bona & cattalla de quibus interius in brevi iſto fit mentio vendi, & x. inde provenientem ad Scaccarium dominę Reginę apud Weſtmonaſt. ad diem in brevi iſto limitatum habeo parat; juxta tenorem iſtius brevis.

Aliter.

Virtute &c. vendidi bona & cattalla infraſcripta per me prius capta, ac etiam fieri feci de bonis & cattallis R. S. infraſcriptis reſiduum debiti infraſcripti. Ita quod omnes denarios illos paratos habeo coram dominâ Regina, ad diem & locum infraſcriptum infraſcriptis H. W. ſolvendi, prout interius mihi præcipitur.

Superſed.

Quoad fieri faciendos denarios infraſcriptos, virtute cujuſdam brevis dominę Reginę de Superſed mihi directi omnino ſuperſed, quod quidem breve de ſuperſed huic brevi annex. vobis mitto. Et ulterius certiſico, quod dictus J. C. non aliqua alia vel plura bona ſeu cattalla, terras ſeu tenementa in eadem balliva mea habet, unde denarii aliqui ad præſens levare poſſunt, &c.

Reſtitution.

Restitution upon Fieri facias.

J. G. & alii infranominat̃ nihil habent, nec eorum aliquis nihil habet in ballivā mea unde restitutio bonorum & cattallorum infraſcrip̃t infranominat̃ W. M. habere facere potui, necnon xxiiij. li. infraſcrip̃t eidem W. M. fieri facere potui, prout &c. *Nihil.*

T. F. infraſcriptus nulla habet bona ſive cattalla in ballivā mea, de quibus denarios infraſcriptos, aut aliquam parcellam inde levare poſſum, prout interius mihi præcipitur &c. *Levare fac.*

Virtute &c. cepi in manus dominæ Reginæ quoddam hoſpiciū, cum tribus thoppis in tali loco ipſius J. T. infraſcrip̃t, qui valent per annum ultra reprisas x. li. Et quod p̃ ædictum hoſpiciū cum thoppis prædictis ſalvo cuſtodio, donec aliud à vobis inde habeo in mandatum. *Aliter.*

Executio iſtius brevis pater in quadam inquiſitione &c. *Enquire de dampnis.*

Inquiſitio indentata, capta apud W. in Comitatu W. tali die & anno, coram R. W. armig. Vicecomit̃ ejusdem Comitatus, virtute cujuſdam brevis dominæ Reginæ eidem vicecom̃ direct̃, & huic inquiſitioni conſue, per ſacramentum R. S. &c. ad numerum xij. Juratoꝝ : Qui dicunt ſuper ſacramentum ſuum quod A. P. in brevi huic inquiſitioni conſue nominat̃, ſuſtinuit dampna occasione tranſgreſſionis per J. H. in p̃ ædicto brevi nominatū, prout in eodem brevi ſit mentio ad xl s. & pro miſis & cuſtagiis ipſius A. P. per ipſum circa ſectam ſuam in hac pte appoſitis ad xl s. In cujus rei &c.

Virtute iſtius brevis ego N. S. armig. vicecom̃ com̃ infraſcrip̃t, tali die & anno, liberavi J. B. medietatem maneriorum in inquiſitione huic brevi conſue ſpecificat̃ cum pertinentiis, per extenſā in dicta inquiſitione factā, Tenend' ſibi & assignat̃ ſuis ut liberum tenementum ſuum, quouſque idem J. B. debitum & dampna ſua infraſcrip̃t levaverit, prout interius mihi præcipitur. *Elegit.*

Virtute iſtius brevis, tali die & anno liberari feci inframinato A. B. medietatem manerli de S. cum pertinentiis, extenſē ad annum valorem quatuor librarum ſterling. *Aliter.*

sterlingorum in omnibus exitibus ultra repressas, per xij. Jurat in inquisitione huic brevi consue nominat. De quo quidem manerio cum pertinentiis, B. G. & E. uxor ejus tuerunt inde seisciti, ut in jure ipsius E. in feodo ut de libero tenemento, die captionis inquisitionis predictar, prout in eadem compertum est, habendum & tenendum eandem medietatem manerii predicti cum pertinentiis sic extentam, predicti A. B. & assignat suis, ut liberum tenementum suum quousque infraspacifici iij. li. inde levaverit, juxta formam istius brevis. Residuum vero executi istius brevis patet in quadam inquisitione huic brevi consue &c.

Of a Liberate after an Extent made upon an Obligation, of a Statute Staple.

Deliber.

Virtute &c. liberavi infranominat B. S. maneria, terras & tenementa infra, habend' sibi & assignat suis ut liberum tenementum suum quousque sibi de debito infrascripto una cum dampnis, missis, & expensis suis plenarie fuerit satisfact', prout &c.

Extent

Virtute &c. dominæ Reginæ in Cancellaria sua ad diem & locum infracontent ubique tunc fuit certifico, quod tali die & anno seisinam & possessionem, de & in maneris, terris, & tenementis infraspacificat, infranominat W. C. liberavi, secundum exigent' istius brevis, ac infranom n' H. M. non est inventus in balliva mea.

Aliter

J. M. infra. non est inventus in balliva mea, ideo ipsum capere non possum ad presens, Sed quoad extendend' & apreciand' omnia terras & cattall' ipsius J. M. juxta formam istius brevis, executi inde patet in quadam inquisitione huic brevi consue. Quæ quidem terræ & cattall' in dicta inquisitione contenta, in manus dominæ Reg. seisciri feci.

Aliter infra libertates.

A. B. infranominat non est inventus in balliva mea: Et ideo virtute hujus brevis mihi directi, extendi & apreciari feci, omnia terras & tenementa, bona & cattall' præd' A. in dicta balliva mea. Quæ quidem extent huic brevi est annex. Ac etiam omnia terras & tenementa præd' in eadem extent specific', una cum dampnis & custagiis suis rationabilibus levavi, juxta formam statuti inde editi & provisum, & secundum formam hujus brevis.

Virtute

Virtute &c. cepi bona & cattall' J. M. infraspacific' ad valentiam omnium denariorum infras. Et illa venditioni exposui, ad quæ nondum inveni emptores: Ideo denarios infras. habere non possum ad diem & locum infracenten, prout &c.

Habere facias seisinam.

Virtute &c. Justic' infrascript' certifico, quod tali die & anno infrascript' habere feci A. B. plenariam seisinam de uno Mesuagio cum pertinentiis in S. infrascript' in omnibus, prout istud breve, &c.

De lib seif.

Virtute &c. tali die & anno infraspac', habere & assignare feci infranominat' A. B. plenariam seisinam de manerio & tenemento infraspacificat' in loco convenienti, viz. de manerio de F. xx. acf terf, centum acf prati &c. cum pertinentiis in F. &c. in comit' infrascript', secundum formam & effectum &c.

Aliter

Virtute &c. habere feci R. G. visum unius mesuagii cum pertinentiis in C. Et dixi R. S. & J. D. T. M. & H. R. quatuor Militibus ex illis qui visui illi interfuerunt, quod sint coram Justic' infrascript' ad diem & locum infracenten, ad testificandum illum visum, prout istud breve in se exigit & requirit &c.

Visus.

Virtute &c. Justic' infrascript' certifico, quod nullus ex parte R. S. venit ad ostendendum mihi visum de mesuag. & pratis cum pertinentiis infrascriptis: Ideo ad executionem istius brevis per me nihil actum est ad presens.

Habere facias visum.

Virtute &c. Justic' infrascript' ad diem & locum infracenten certifico, quod tali die & anno, habere feci infras. J. F. & M. uxori ejus visum de mesuag. &c. infraspacificat' cum pertiis. Et dixi A. B. C. D. E. F. G. H. iij. Milit' de com' meo qui visui ill' interfuer, quod sint coram Justic' prædict' ad diem & locum infracenten, ad testificandum visum ill', prout interius mihi præcipitur.

Aliter

Virtute, &c. dominæ Reg. hujc scedule annex. habere feci J. G. in eodem brevi nominat', visum de lx. acf pastur' cum pertine in G. quas H. F. in cur' dominæ Reg. coram Justiciis suis apud West. clamat ut jus & heredit' sua versus prædict' J. G. per breve dominæ Reginæ, in forma donationis in descend'. Et dixi iij. Milit' qui visui illi interfuer, quod sint coram Justic' dictæ dominæ Reginæ apud West. ad diem in dicto brevi specificatum, ad testificand' visum ill', prout in eodem brevi mihi præc'.

Aliter

Nullus venit ad me ex parte infranominat' R. F. ad

Aliter.

monstrandum mihi visum de pastura infraspecificata, ob quam causam visum de pastur illa infras. R. F. habere facere non potui.

Vasto

Executio istius brevis patet in quadam inquisitione huic brevi annex.

Inquisitio

Inquisitio indentata capta apud G. (qui est locus vastatus) in com. D. tali die & anno, coram W. L. vicecom. prædict, virtute cujusdam brevis dominæ Reg. eidem vice. inde dirigend, per sacramentum xij. Jurat, qui dicunt super sacramentum suum quod R. M. in dicto brevi non inat, fecit vastum & destructionem in bosco de quo in brevi prædict fit mentio, & in bosco prædict succidit xx. quercus, precii cujuslibet xx. d. partem inde vendend, & partem inde asportand, in exheredationem W. F. infras. & contra formam provisionis in eodem brevi specificat. Et dicunt sup sacrament suum, quod præd R. nullum majus vastu in bosco prædict fecit, prout eis aliquo modo constare potest. In cujus rei &c.

Aliter

Virtute &c. accessi ad locum vastatum in brevi isto contentum, prout interius mihi precipitur. Et residuum executionis istius brevis patet in quadam inquisitione huic brevi annexa.

Inquisitio

Inquisitio indentata capta apud F. in Comitatu W. tali die & anno, coram W. K. armig. Vicecom. præd, virtute cujusdam brevis dominæ Regine ei direct, & huic inquisitioni annex. per sacramentum A. B. &c. ad numerum xij. Qui dicunt super sacramentum suum quod J. B. in brevi prædict nominat fecit vastum, venditionem, & destructionem in ten, terris, & boscis, in brevi prædict specificat, v. z. in permittendo aulam &c. in brevi præd specificat discooper, per quod grossum maeremium earundem domorum per tempest pluviales super illas discendentes, putrid devenit &c.

Pro Som. Aff.

Virtute istius præcepti mihi directi venire feci coram Justic infrascript, ad diem & locum infraconten, omnia brevia, Aff. Jurat, & certific in comitatu W. infras. unum pannellis, attach. reattach. sen, resen, & omnibus aliis adminiculis, Aff. Jurat, & certific ill' qualitercunque tangen, venire etiam feci coram præf. Justic, ad gaolam dominæ Reg. de F. de prisonariis in ea existent deliberat assign apud F. præd ad pf. diem, omnes prisonari in gaola præd existent ill' qualitercunq; tangen, & ad visu cujuslibet

libet vill' & loci ubi felon (unde iidem person' indictat', ap-
pella', sive arrestat' existunt) fact' fuer', tam infra libertates
quam extra, xxiiij. probos & legales homines quibus rei
veritas melius sciri poterit & inquiri. Et qui prisionarios
illos nulla affinitate attingunt, una cum iij. hominibus
& prepositis vill' & loci eorum, ad faciend' ea quæ tunc &
ibid' eis ex parte dictæ dñæ Reg. nunc injungentur, pub-
licè etiam proclamari feci per totam ball'meam, qd' omnes
illi qui sequi voluerint versus prisionat' illos, quod tunc
sint ibi vers' eos (prout justum fuerit) prosecut'. Scire etiam
feci omnibus Justic' pacis, Coronatoribus, Seneschallis,
Ballivis libertatū, & hundred' com' præd', quod tunc sint
ibi cum Rotulis record', indict', & all' memorand' suis ad
faciend' ea quæ ad officium suum pertinent, prout interius
mihi precipitur.

Residuum executionis hujus præcepti patet in quibus-
dam scedul' huic præcepto annex.

Virtute &c. venire feci coram Justic' infra script' apud
M. infrasp' die & anno infracent', omnes Consta-
bular', & ballivos hundred', & Burgar' infrasp', Necnon
de quolibet dictorum hundred' xxiiij. Jura', ad faciend'
ea quæ eis ex parte dominæ Reg. ad tunc & ibid' injun-
gentur. Ac etiam scire feci omnibus Constabulariis &
Ballivis hundred' infrasp. quod tunc sint ibi, habentes se-
cum omnia nomina artificum, laborant', & servient'
husbandriæ, infra hundred' præd', contra formam statuti
inde editi & provisi.

Ac insuper sufficien' proclamari feci infra ballivam
meam, quod omnes illi qui tam pro dict' domina Regina
quam pro seipsis, versus hujusmodi artific', laborant', &
servient' aliquam querelam, juxta formam statuti ordina-
tion' prædict' conqueri vel prosequi voluerint, Quod tunc
sint ibi billam suam prof. Justiciar' ibidem subitur', si sibi
viderint expedire, prout interius mihi precipitur.

Sessione

Kalendarium nominum Justiciar. &c.

Derb.

Kalendarium de nominibus Justic' pacis dominæ reginæ, Coronat', Seneschal', Ballivorum libertatis & hūc in com' pred' soni, ad assisatentē apud D. in comitatu pred', die Mercurii in quarta septimana Quadragesimæ, Anno regni dominæ Elizabethæ Dei gratia Ang', Franciæ, & Hiberniæ Reginæ, fidei defensoris &c. 20. de nominibus prison in gaola D. predict' existē. A. B. C. D.

Nomina Justic' pacis.

A. B. C. D. &c.

Nomina Coronatorum.

A. B. C. D. &c.

Nomina Senes. & ball' libertatē.

E. F. G. H.

Nomina ballivorum hundred.

J. K. L. M.

Nomina prison in gaola D. existē.

J. S. repris.

J. N. cap' apud S. pro suspect' felon.

Process in Chancery.

Retörn. Bre.
Pro Milit.
Parliamenti
eligend.

ELigi feci duos milites gladiis majus idoneos, & discretos de comitatu meo predicto, videlicet, W. F. & J. S. Qui quidem milites plenam & sufficientem potestatem pro comitat' predict' habeant, ad faciendū & consentiendū hiis que ad diem & locum infracontentes de communi consilio reg. Reg. Ang. ordinat' contiger, & pred' W. F. & J. S. manucap' sunt per J. P. W. B. J. D. & R. N. ad essendū ad parlamentum dominæ Reginæ apud Westminsterium, ad diem infracontentē, ad faciendū, prout istud breve in se exigit & requirit. Feci etiam preceptum virtute hujus brevis J. P. & W. S. ball' libertat' ville de G. quod de Burgo de G. eligi facerent duos Burgenses de discretior' & majus sufficient', quod sint ad parlamentum dictæ dominæ Reginæ ad diem infracontentē, ad faciendū & consentiendū ut præd' est. Qui

Qui quidem ball' sic mihi respondent, quod eligi fecerunt de præd' Burgo de G. duos burgenſes diſcretos, & magis ſuffic', ad eſſend' ad parlamentum præd', videlicet, S. W. & R. W.

Virtute &c. ad prox. com' meum poſt receptionem ejusdem, tenē apud W. tali die & anno, in pleno comitat' illo, proclamari feci omnia in iſto brevi content', ſecundum formam & effectum hujus brevis, prout &c. Reſiſt' vero executionis iſtius brevis patet in quibuſdam indent' huic brevi conſuē.

*Pro Burgo
Parliamenti
eligend.*

Hæc Indentura facta tali die & anno, inter M. P. vic' com' C. ex una parte, & J. D. & A. B. &c. ex altera parte, Teſtatur quod ſecundum formam brevis, huic Indenturæ conſuē, (facē proclamac' in pleno comit', tenē apud C. tali die & anno) præd' J. D. & S. B. &c. qui proclamac' prædict' in pleno com' prædict' interfueſ, ſecundum formā ſtatutorum in brevi prædicto ſpecific', & exigenc' brevis illius elig. A. D. & J. A. eſſend' Burgenſ. civitatis prædictæ ad parlamentum in eodem brevi ſpecificat'. Qui plenam & ſufficientem poteſtatem pro ſe & Comitatu Civitat' prædictæ habent, ad faciend' & conſentiend' prout breve illud in ſe exigit & requirit. In cujus rei teſtimonium partes præd' huius Indenturis ſigilla ſua alternat' &c.

Indentura.

Virtute iſtius brevis tam infra libertates quam extra, per totam ballivam meam publice proclam feci, quod omnes & ſingul' perſon' terras, tenement', & reddit', ut infraſcript' eſt, habent', (Quorum nomina in quadam ſedula huic brevi annex. ſunt ſcript') ad preſentiam dominæ Reginæ circa feſtum infraſcript' perſonaliter compareant, & accedant, ad præfat' ordinem recipiendum, prout interius mihi præcipitur.

*Super breve
de ordine
milit. recipi.*

Virtute &c. omnia brevia mihi deliberaſ ſeu deliberaſſanda, coram Juſtic' infraſcript' apud Weſtm' in octav. ſancti Hill', returnabil' ſive return', habeo coram Juſticiari' infraſcript' apud Weſtm' die &c. unā cum omnibus executionibus eorundem. Et ulterius ad Com' meum tenē apud N. tali die & anno, publice proclam feci, quod partes in eiſdem brevibus nominate, dies ſuos coram Juſtic' apud Weſtm', ad præſatum terminum conſervarent, prout iſtud breve, &c.

*Adjourn-
ment.*

Virtute iſtius brevis dominæ Reginæ infraſ. in Can-
N n 3 cellaria

*certiorare
super prote-
ctione.*

cellaria sua, sub sigillo meo distincte & aperte certifico, quod W. T. infranominat sub salva custodi, vittellac, & tuitione villæ castri Marchiæ dominæ Regine Callie, in obsequio ejusdem dominæ Regine in S. præd consanguinei sui W. D. locum tenent sui general' villæ, Castri ac Marchiarum predictæ juxta formam dominæ Regine litterarum patent, per quas eadem domina Regina prefat W. T. in protectionem & defensionem suam nuper suscepit, non moratur, sed moram trahit in civitate London propriis negotiis suis intend &c.

Supplicavit.

Ego J. D. Miles vic' com' infraspacific' dominæ Regine in Cancellaria sua certifico, quod ante adventum istius brevis A. B. infranominatus captus fuit in balliva mea & in prisione dominæ Regine ibidem sub custodia mea detentus, virtute cujusdam alterius brevis huic brevi consue, pro quo quidem prefat A. B. ante adventum istius brevis traditus fuit in balliva A. B. C. D. E. F. & H. P. qui manuceperunt, & quilibet eorum manucepit per se pro præfato A. B. sub pena decem librarum, quod ipse dampnum vel malum aliquod H. P. in dicto brevi de Supplicavit spec', infra talem diem proximo futurum non faciet, nec fieri procurabit quovismodo. Quas quidem decem libras prefat manucaptor concesserunt, & quilibet eorum per se concessit de terris & catallis suis, & cujlibet eorum, ad opus dictæ domine Regine levare, si dampnum vel malum aliquod eidem H. P. per prefat A. B. aut per procuracionem suam interim eveniat ullo modo &c. Et hec est secur' pacis que prefat A. B. coram me invenit, &c.

Vel sic.

Sub qua quidem balliva prefatus C. permissus fuit ire ad largum extra prisionam predictam, & postea ad custodiam meam non revenit, quapropter corpus predicti C. coram domina Regina ad diem & locum infracontentos habere non possum.

Vel sic.

Ego &c. Dominæ Regine in Cancellaria sua certifico, quod R. F. infranominatus nullam mihi invenit securitatem pacis de qua interius sic mentio, sed in prisione dominæ Regine sub Custodia mea ad præsens residet.

Vel sic.

Pro quibus quidem querelis de minis prefat J. B. ante adventum istius brevis traditus fuit in balliva quibusdam

busdam A. B. C. D. E. F. & G. H. qui manuceperunt, & quilibet eorum manucepit sub pœna xx. lib. pro predictis J. B. quod ipse dampnum vel malum aliquod prefatus H. P. & F. D. aut eorum alteri, citra Crastinum animarum proximo futurum non faceret, nec fieri procurabit. Quas quidem viginti libras prefatus manucepit concessit, & quilibet eorum concessit de terris & cattallis suis, & cujuslibet eorum, ad opus dominæ Reginæ levare, si dampnum vel malum aliquod eidem H. P. & T. D. aut eorum alteri, per prædictum J. B. aut procuracione sua interim eveniat ullo modo, sub qua quidem balliva &c. ad largum &c.

Ante adventum istius brevis, & ante aliquam executionem ejusdem A. B. C. D. E. F. &c. venerunt coram me J. D. vicecomite W. & manuceperunt coram me prefato vicecomite, pro L. M. videlicet quilibet manucaptorum predicti sub pœna decem librarum, quod idem L. citra Crastinum Animarum proximo futurum versus partes transmarinas ad aliqua dictæ Reginæ aut aliquibus de populis dictæ dominæ Reginæ prejudiciali sive dampnosa ibidem prosequenti, seu attemptanti se non diverteret, nec quicquam ibidem prosequatur quod in dictæ dominæ Reginæ, seu populi sui prejudicium vel dampnum, aut statum regni nostri Angliæ eversionem cedere valeat, nec aliquem vel aliquos illuc mitteret ex hac causa: Quam quidem summam decem librarum iidem manucaptores concesserunt, & quilibet eorum per se concessit de terris & cattallis suis ad opus dictæ dominæ Reginæ levare, si idem L. aliquid contra formam manucaptionis predictæ fecerit, seu fieri fecerit, vel attemptaverit quoquo modo. Et hic est tenor securitatis unde interius fit mentio. Quem dictæ dominæ Reginæ in Cancellariam &c. ad diem & locum &c. mitto.

Ne exeat
reg.

Virtute istius brevis mihi directi publicam proclamationem feci infra ballivam meam, quod infranominatus H. B. sub pœna legiantie suæ coram domina Regina in Cancellaria sua infrascripta ad diem infracentem compareat prout interius mihi precipitur, necnon dictæ dominæ Reginæ certifico quod infranominatus H. B. non est inventus in balliva mea.

Proclam. e.
Cancell.

Premunire.

Virtute istius brevis tali die & anno per J. S. T. W. R. T. & E. F. probos & legales homines de balliva mea premunire feci W. R. cleric' infranomiñ, quod sit coram domina Regina ad diem infracontenē, ubicunque &c. ad faciend' & recipiend' prout istud breve in se exigit & requirit, & J. B. & ceteri def. infranominati nihil habent in balliva mea per quod eis premunire facere possum ad presens, nec sunt inventi in eadem.

*De eligend.
viridar. ali-
cujus forestæ*

Dominæ Reginæ certifico quod infranominatus J. H. ante advent' istius brevis mihi direct' mortuus fuit. Quodque ego post receptionem istius brevis mihi direct' in pleno comitatē meo tenē apud Wilton in comit' meo xxix. die Maij Anno infrascript' ex assensu ejusdem comitatus loco prædict' J. eligi feci quendam N. S. Armigerum, viridarium forest' de B. infrascript', ad faciendum prout breve istud in se exigit & requirit.

Electio Coron. post mortem al.

Ad com' meum tenē tali die & anno, in pleno comitatē prædict' virtute istius brevis de assensu ejusdem comi, loco P. H. infranominati (qui diem clausit extremum) elegi Coronatorem viz. J. W. Qui (prout moris est) sacramentum prestitit corporal', quod ipse ea faciet, & conservaverit quæ ad officium Coron' in com' præd' pertinent faciend', prout interius &c.

Justic. de foresta Som.

Virtute istius brevis sum' Archiepiscopos, Episcopos, Abbat', Comit', Baron', & omnes al' liberos Tenent' qui terr' & tenementa habent inf. me' forestæ dominæ Reg. infrascript' in comi meo, & 4. homines, & præposit' de quor' villat' inf. me' ejusdem forestæ. Ac etiam xij. probos & legal' homines de quo l' burgo infra me' dictæ forestæ tenend', q' venire debuerūt & solebant, quod sint corā Justic' infras. ad diem & locum infracontē prout interius mihi precipitur. Publice etiam proclam' feci per tot' ball' meam tam in burg. quam in al' vill', & in feriis mercat', & aliis locis publicis, quod omnes ill' qui per cartas dominæ Reginæ nunc, aut antecessorum, aut progenitorum suorum; aut alio modo aliquas libertates seu franchiseas tenent, aut libertates habere clām, & quo warrañ, quod sint coram dict' Justiciariis ad diem & locum prædict'. Proclam' etiam feci quod omnes attach, pro ver' aut venatione in foresta predict' post ultim' placitum forestæ predict' tenē,

et eorum pleg. et manucapē, qui habent diem per manucapē predictē effendi coram prefatē Justic' ad standum recto, et ad faciendum ea que secund. legem forestæ facere debent.

Residuum executionis istius bñs patet in quibusdā pannel' huic brevi annexis.

Virtute &c. cepi corpus H. S. infranomiñ, cujus corpus coram Justic' infrascriptis ad diem & locum infracontentē paratum habeo, prout interius mihi pæcipitur.

cap. utlagat

Residuum vero executi istius brevis patet in quadam inquisitione huic brevi annexa.

Ante adventum istius brevis J. M. armig. nuper vicecomi W. infranominat T. D. cepit, & in prisona dñæ Reginæ penes se detinuit virtute et iussu brevis dñæ reg. dicto nup vic' direct: quem quidem T. D. dictus nup vic' una cum dictē brevi ei direct, mihi J. D. Mil' nunc vic' comitatē pñ in exitu ab officio suo deliberavi, cujus quidem corpus ac breve dicto nuper vicecomi direct, ego prefatē nunc vicecomi coram Justiciariis infrascriptis ad diem et locum infracontentē paratū habeo, ad faciendū & recipiendū quod dictē breve in se exigit & requirit.

*Aliter int.
vic*

Istud breve prout superius indorsatē simul cum inquisitione huic brevi annexa xx. die Junij, anno Regni Domine Reginæ infrascriptē ix. liberatum fuit mihi J. D. Militi vicecomiti W. infrascriptē p J. E. Armig. nup vicecomi pñ pdecess. mei in ejus exitu ab officio suo.

*Testific. re-
turn. nuper
vic.*

This last Return ought to be written in Roman Letters.

Virtute &c. omnia & singula indictamenta R. B. infranomi coram domina regina ubicunque fuerit in Anglia ad diem infracontentum mitto in quadam scedula huic brevi consuē.

Certiorare.

Nos A. B. & C. D. Coronator domine Regine comitē infrascriptē Justiciariis infrascriptis ad diem & locum infracontentē certificamus, quod sciutavimus rotulos, et alia memoranda nostra, ac etiam omnia et singula ad aliquē cñi infrascriptē in presentia nostra tenē, tam ad sectam dictę Domine Regine, quam ad sectam G. H. seu alicujus alterius promulgatē, ac nihil inde invenire possumus, nec aliquid tale recordū habet q, Justic' infrasc. certificare poterimus juxta formam hujus brevis.

*Aliter per
coron.*

Virtute

Test. per bi-
nam.

Virtute &c. Justiciar infras, certifico quod tali die & anno cepi in manus dominæ Reginæ 3. mess. &c. infra-
script per visum A. B. C. D. E. F. & G. H. proborum &
legalium homin de balliva mea prout interius mihi præ-
cipitur.

Pedimus po-
test.

Virtute &c. dominæ Reginæ in Cancellariam suam
certific, quod A. B. infranom coram nobis sacramentum
præstitit corporale quod literę patent (unde infra fimen-
tio) ad man infranom C. D. testatoris sui devenerunt. Sed
per sacrament suum dicit quod nihil de articulis & aliis
circumstant in ejusdem literis patent specificat, coram se
invent fuit.

Le ver. dum
commiss.

Responsum H. L. & J. D. Commiss.

Virtute istius commissionis nobis directi cepimus res-
pons. T. D. infranominat super sacrum dei Evangelium,
quod omnia in eadem responsione content sunt vera, Quæ
quidem responsio sic capta, est huic commiss. annex. una
cum billa nobis similis in eadem direct. Et omnia alia quæ
in eadem commissione continent, sive ad eandem pertinent,
fieri fecimus secundum effectum & tenorem ejusdem, prout
interius nob. præcipitur.

Retorñ pro Cancell^o seu custode rotulor.

Virtute &c. scruta f sui inter record^o cancell^o dominæ
Reginæ infrasc., & in eisd^o, seu eorum aliquo nullum
record^o pro titulo dominæ Reginæ adhuc invenio, per
quod constare potest de aliquibus terris seu tenementis
cum pertineñ in S. in C. que nuper fuerunt infranom J. S.
quæ ad manus dictę domine Reg. unquam devenerunt,
prout in isto brevi supponitur.

Decies tan-
tum.

Justiciar infras. certifico, quod infranom S. A. ad diem
& locum infracententos, coram vobis parat habeo, ad fa-
ciend & recipiend quod Curia domine Reginæ infra-
script de eo consideraverit, juxta formam istius brevis.

Securitas
pacis.

Ego J. D. unus Justiciar dominæ Reginæ in comitat^o
D. de pace conservanda assign, mitto coram domina Re-
gina in cancellariam suam tenorem securitatis pacis, de
qua in dicto brevi fit mentio, sub sigillo meo, prout istud
breve in se exigit & requirit &c. Quæ quidem securitas
huic brevi est consue.

Securitas

Securitas pacis; prout est capē.

Certificat.

Respons. T. F. Maior civit D. ac unius Justiciar domine Regine ad pacem in eadem civitate conservand assign.

Secudula.

Virtute &c. omnes & singulas recogn quas A. B. & ceteri infranomiā coram Justic' infras. nuper fecer, cum omnibus eas tangē, coram domina Regina, ad diem & locum infracentē, mitto sub sigillo meo presentē annex. prout interius &c.

T. F. Maior Civit præd

Process out of the Exchequer.

Infranominat domina J. S. nihil habet in maneriis, terrē, *Nihil.*
& tenent infras. nisi cum J. S. An quem ipsa accepit in virum.

Virtute istius brevis mihi directi, cepi corpus infranominat J. S. cujus corpus coram Baroñ infras. parat habeo, prout interius mihi præcipitur. *Cepi corpus*

Virtute istius brevis mihi directi, Baroñ infras. certifico, quod cepi corpus infranominat J. R. cujus corpus coram dictis Baroñ parat habeo ad diem infracentē. *Cep. tam corpus quam terras.*
Necnon xx. die Jan anno viij. infras. cepi in manus dictē dominæ Reg. nomine districtionis, cert terrē & tenent infranomi J. R. jacent & existē in B. ann valōr C. s. prout breve istud in se exigit & requirit. *Dist.*

Infranomi J. E. non est invent in ball' mea, nec habet ulla bona seu cattalla in ball' mea, sed virtute istius brevis mihi directi, Baroñ infrascripē certifico, quod xv. die Junij. anno xx. domini Reg. infras. cepi in manū dictæ dominæ Reg. nomine distriction vij. messuag. sive tenent cum pertinen in M. quæ sunt clari annui valōr L. s. Et unū capitale mess. sive firmas cum pertinen in W. annui valōr quinque marcarum. *Cep. tam corpus quam bona.*

Infranomiā A. B. non est inventus in balliva mea. Et ulterius Baroñ infras. certifico, quod virtute istius brevis mihi directi, tali die & anno infras. cepi in manus dictæ dominæ Reg. unum mess. sive tenent cum pertinen in B. in com W. infras. annual' valōr x. li. ut de terris & tenent infranomi A. B. Necnon vj. vaccas, unum taurum, & unum spadonem precij in toto 8 li. de bonis & cat' ejusdem

Aliter

A. B.

A. B. nomine districti, prout mihi precipitur.

Quæ quidem omnia bona & catæ penes me remanent invendit pro defectu empti. Et idem A. B. nulla alia sive plus bona seu catæ, terræ, seu tenementa habet infra balliviam meam, quæ in manu dictæ dominæ Reg. ad presens aliquo modo capere vel seiscire possum.

Aliter

Baronem infra. certifico, quod virtute istius brevis mihi directi 8. die I. Anno &c. infra scriptum cepi in manu dominæ Regine manerium de S. cum pertinentiis infra scriptum prout &c.

Sedula.

Residuum executionis istius brevis patet in quadam sedula huic brevi consueta.

Inquis. indentata capta apud S. in comitatu prædicti 8. die Ia. anno &c. xx. coram me J. H. Milite vice comitis prædicti, vice brevis dictæ dominæ Reg. claus. mihi directi, quod est huic inquisitioni annex. per sacrum J. D. R. R. &c. proborum & legalium hominum comitatu prædicti.

Qui dicunt super sacramentum suum quod manerium de S. cum pertinentiis est annui valoris v. li. ultra omnia onera & repositi. In cuius rei testimonium &c.

Aliter

Manerium de S. infra. jacet in comitatu G. & non in comitatu W. ideo tenentes inde distringere non possum, prout interius mihi precipitur.

Cape in manus.

Virtute istius brevis mihi directi Baronem infra. certifico, quod xx. die Martij, Anno 8. dominæ Regine infra. cepi in manum dictæ dominæ Regine manerium infra. cum pertinentiis, prout interius mihi precipitur.

Si sit cum inquis. pro annuo valore.

Residuum executionis brevis patet in quadam inquisitione huic brevi consueta.

Quis est tenens.

Infranomina sunt W. B. & M. uxor ejus sunt tenentes tertie patris manerij infra. in tres partes divisi. Et C. A. M. E. & J. B. filie C. D. defunctæ, sunt tenentes secundæ partis manerij infra scripti in tres partes divisi, & alia tertia pars manerij infra. remanet in manu dominæ Regine ratione minoris ætatis T. B. filii & heredis prædicti C. B.

Manus prænominatorum W. B. & M. uxoris ejus J. D. R. R.

Venire fac. offic. Corone vel Scacc.

Infranomina sunt A. B. nihil habet in balliva mea, per quod potest attachiare, ubi eum sumi possum.

Infransi A. B. attachiare est p. p. leg. viz. J. D. R. R.

Si sit

Sic Comites aut Comitissa.

Exiit eorum dimarcus.

Et ulterius, si hec verba recitant in brevi. (Necnon ad ostendendum.) xx. s.

Infranominatus R. A. nihil habet in teris, tenementis, & hereditatibus infra scriptis, per quod ipsum distringere possum. *Distr.*

Nullum tale manerium, nec ullus teris seu tenementum cognitus per nomen de E. jacens in comitatu W. unde tenent inde distringere possum, prout interius mihi precipitur. *Aliter*

Infranominatus J. K. & R. K. nihil habent, nec eorum alter aliquid habet in balliva mea. Et ulterius Baronem infra scriptum certifico, quod nulli sunt executor vel administrator bonorum & cattallorum que fuerunt infranominatus M. K. unde ipsos aut eorum aliquem distringere possum.

Manucapsum J. S. gerens tenent teris & tenementorum infra scriptum que fuerunt infranominatus M. K. J. D. R. R.

Exiit xij. s. iij. d.

Virtute &c. fieri teci de bonis & cattallis J. H. infranominatus, quandam dimissionem & concessit eidem J. H. per quendam T. G. ex una parte & predictum J. H. ex altera parte, pro termino xxxj. annorum, incipiendum a j. die Januarii anno Reg. domine nostre E. infra scriptum, prout per indentum illud gerens datus eisdem die & anno plenius liquet & apparet, de & in uno mesuagio, sive firma cum pertinentiis, scituatur, jacens, & existens in L. in parochia de F. infra ballivam meam vocatur sive cognitus per nomen de B. simul cum omnibus & singulis terris, pratis, pascuis, pasturis, boscis, subboscis, aquis & pasturis, cum omnibus suis pertinentiis, scituatur, jacens, & existens infra villam, parochiam & campos de F. predicti, et similiter in balliva mea. Et predictum dimissionem, ac omne & totum jus, statum, titulum, terminum annorum, possessionem, & demandam, que predictum J. H. modo habet de & in predictis premissis, virtute sive vigore ejusdem dimissionis, & concessionis, aut aliter venditioni exposui, & vendidi cuidam P. H. gerens pro summa septuaginta & sex librarum, tresdecim solidorum, quatuor denariorum, ac etiam fieri feci de aliis bonis & cattallis predicti J. H. ad valentiam lxx. li. sex solidorum &

octo denariorum. Quæ quidem denar. summæ sic in forma prædictæ per me levatæ, in toto se attingunt ad Cxxij. li. & duodecimi denarios. Et easdem summas coram domina Regina ad diem & locum infracontentæ paratæ habeo, & reddend' infrascriptæ E. P. & J. uxori ejus, in partem satisfactionis dampnorum infrascriptæ, prout per breve istud mihi interius præcipitur. Et quod J. H. nulla bona sive cattalla in balliva mea habuit, ut residuum prædictæ centum sexaginta quinque librarum, sex solidorum, duorum denariorum, fieri sive levare possum, secundum exigent' hujus brevis.

Cepi in manus domine Reg.

Virtute &c. x. die S. anno Regni domine Regine infrascriptæ xx. Ego J. S. Miles vic' W. infrascriptæ, cepi, resumpsi, & in man' domine Regine seiscivi omnia tñt, shopas, gardina, & omnia al' pertiñ virtute brevis prædictæ resumend', quæ parent in inquisitione huic brevi consue.

De venditioni exponen.

Virtute istius brevis mihi directi de die in diem venditioni exposui illa bona & cattalla ad valentiam C. s. residuum de viij li. quæ nuper fuer' de bonis & cattallis, terris, & tenementis T. F. infranominatæ, & inde vendidi ad valentiam xl. s. Quos quidem quadraginta solidos, paratæ habeo ad diem & locum infracontentæ, prout interius mihi præcipitur, tunc ibidem solvend'. Et residuum bonorum & cattallorum prædictæ adhuc penes me remanent invendi' pro defectu eniptorum; sed venditioni apponam de die in diem, & quando vend' contiger', denarios inde provenient' coram Baroñ infrascriptæ habebo secundum formam & effectum hujus brevis.

Aliter

Illa bona ad valent' viginti marcarum infrascriptæ, quæ virtute brevis domine Regine nunc nuper mihi directi, cepi de bonis & cattallis, terris & tenementis quæ nuper fuerunt T. F. infranominatæ venditioni exposui, & vendidi, & denarios illos coram Baroñ infrascriptæ, ad diem & locum infracontentæ paratos habeo, prout interius mihi precipitur.

Mortui sunt.

A. B. & C. D. infranominatæ mortui fuere diu ante emanationem hujus brevis, nec aliqua habuere bona seu cattalla, terras seu tenementa infra ballivam meam quæ extend' & apprecia' possum prout per breve istud interius mihi precipitur.

Infra-

Infranominati A. B. & C. D. mortui sunt, & quoad residuum executionis, nihil per me actum est propter temporis brevitatem. *Propter temporis brevitatem.*

Virtute &c. scire feci J. C. infranominato, quod sit coram Baronib. infra scriptis, ad diem & locum intra contentē, per J. C. & R. S. probos & legales homines de balliva mea, prout interius mihi precipitur. *Scire fac*

Nulli sunt executor de E. infra scripti, neque administri bonorum et cattallorum quæ fuerūt ejusdem, nec heredi, neque tenent terrarum et tenementorum quæ sua fuerunt in balliva mea, quibus aliquo modo scire facere possum. *Vers. Exec.*

J. D. & cæteri def. infranominati, nihil habent in balliva mea per quod eis scire facere possum. *Aliter*

Virtute &c. cepi de terris et tenementis infranominati W. R. ad valentiam xl s. quos habeo coram Baronibus infra scripti ad diem & locum infra contentē, prout interius mihi precipitur. Et ulterius Baroni infra scripti certifico, quod prædictus W. nulla alia sive plura terras neque tenementa, bona neque cattalla in balliva mea habet unde residuum debiti infra scripti fieri facere possum, prout istud breve in se exigit & requirit. *Non omit*

Here followeth certain Cases of the Common Law, upon the Returns aforesaid, and others.

BEcause Justices (to whose Duty it belongeth, to administer Justice to every one before them complaining) are oftentimes hindered, so that they cannot in due manner execute their Office, by this, that Sheriffs do not return their original and judicial Writs, and likewise return false Answers; Our Lord the King provideth, That those which fear the malice of the Sheriff, should deliver their Writs in the full County-Court, or in the other County-Court, where there is a gathering of the Kings Money, and let there be a Billet taken of the *West. 2. chap. 35. False Return*

the Sheriff present, or of the Under-Sheriff; in which Billet there shall be contained the Names of the Plaintiff and Defendant, and adjoyn'd to the Billet sealed by the Sheriff, or Under-Sheriff, in witness thereof, and let there be mention of the delivery of this writ.

Tarde.

Mandavi

Balivo.

Averment.

And it gives remedy if the Sheriff will not Seal the Billet: by this Statute remedy is given if the Sheriff return *Tarde*, where he hath sufficient time to serve the Writ, and where he returns (*Mandavi ballivo libertatis*) where it is no Liberty; and this Statute gives (you shall not omit for any Liberty) and gives averment against the Return of the Sheriff, if he return too little Issues, and gives that he should deliver Corn in the Grange, and all Moveables (besides, *Equituras, Indumenta & utensilia domus*) contained under the name of Issues; and the Statute gives (*Posse Comitatus*). See the Statute of 1 Ed. 3. chap. 6.

*Authority of
the Sheriff.*

The Sheriff by the Common Law is the Preserver of the Peace, and hath the Custody of the County for the time that he is Sheriff, and may cause the party to find surety, if any require that; and every Obligation which he takes to keep the Peace, shall be taken a Recognizance in Law, and specially when this is certified by *Certiorare*, in the Chancery. But Pleas before him in the County or Hundred, are not of Record, for these are by reason of course and this taking for Peace, is by reason of his Office, Fitz. 81. D.

Appearance.

If the Sheriff return upon a *Distringas Juratores*, no manner of Issues, and a full Jury appears and pleads, this is no Error, for the King hath no loss, and the Issues are for the King, which he shall not have if the full Jury appear, 5 H. 7. f. 8.

Also if the Sheriff return *Scire feci*, upon Fine or Judgment, and no mention is made of the Summoners and Viewers, and the party appear and pleads, it is no Error, and if upon the Grand Cape there be not returned the Summoners and Viewers, yet if the party appear and pleads, it is no Error, 3 H. 7. f. 14. this Return was amended, and the Plaintiff recovers. See 8 H. 5. f. 2. B.

Scire facias is returned *Scire feci*, by J. S. and J. D. and though the Return be not (by good and lawfull men) as it ought, if the party appear it is a good Return, and may be amended,

amended, 33 H. 6. f. 35. 44 Ed. 3. f. 16. & 8 H. 6. f. 27.

If the Sheriff attach a Cow, the property is not out of the party, till the day of Return, that he make default; and if at the day of the Return he make default, the Sheriff may take that as forfeited to the King, though he have left that before with the party, 9 H. 7. B. Table Dormant, and such things which are fixed to the Freehold, cannot be attached, 21 H. 7. f. 26. Attachment

Annuity, the Sheriff returns, nihil habet in balliva in: a per quod potest attachiari, where it should be, per quod potest summoneri. And though it were in the time of another Sheriff, it was amended; for the Court may amend a mistake of the Clerks, and also of the Return of the Sheriff, 33 H. 6. f. 47. Amendment

Upon a *Distingas Juratores*, the Sheriff in his Return leaves out four names which were in the *Venire facias*, and the Sheriff was examined, and saith, that they were distrained, and for that the Return was amended, 37 H. 6. f. 12. 32 H. 6. f. 45.

Appeal upon *Distingas Juratores*, where there were Knights and Esquires which were in the Writ; there was returned but eight pence upon every Juror, and the Sheriff had been amerced, unless he be there present, and amend that, and sets upon every Juror two shillings, 2 R. 3. fol. 13.

Attaint at the *Distingas Juratores*, the Sheriff returns Issues upon *J. Burton*, where there is no such of the Jury, but *J. Bormestone*, and it was amended, 2 H. 5. f. 8.

The Sheriff upon a *Capias* returns, *Non inveni*, where he ought to return *Non est inventus*; and the party was outlawed, and this was assigned for Error, and awarded Error, and shall not be amended, 9 H. 5. f. 10.

One was outlawed, and *Proclamari feci* of that was returned, *quod proclamari feci*, *quod se reddat Vice' London'*, where the Writ was *vice' Kane'*, and this Outlawry was reversed by Error, and shall not be amended, 27 H. 8. f. 34.

One was outlawed, and the Exigent was returned, *ad Comitatus tenus al Castle de Ox' in primo exactus fuit &c.* and because it was not in that County, it was Error, and shall not be amended, 21 H. 7. f. 34.

One was returned outlawed, and for that, that it did not appear that it was, per Judicium Coronator, it was reversed without Writ of Error, and shall not be amended, 21 H. 7. f. 33.

The Sheriff returns *Scire feci J.A. Clio*, where it should be *Clico*, and was amended, 7 H. 6. f. 1.

Where the Sheriff upon a *Distingas* returns too small Issues, he shall amend the Return, 27 H. 8. f. 3.

Averment.

Process against a Voucher, the Sheriff returns the Voucher dead, the Demandant may aver, that he is alive, by the Statute of 14 Ed. 3. chap. 10. *Vouch. 8.* And there held, That a man shall not have a direct Averment against the return of the Sheriff, unless that his person is to be changed, or his Inheritance for ever to be lost, and that by the same Law he cannot have remedy to save the same Inheritance, 40 Ed. 3. f. 6.

Debt against two, the Sheriff returns upon the *Capias*, *cepi corpora, & ill' coram vobis habeo.* And now one comes and saith, *That his Companion is dead and had it*, for that the other cannot gainsay it, 50 Ed. 3. f. 7.

By the Statute of West. 2. before said, upon a *Distingas*, one may aver that the Sheriff hath returned too small Issues; and by this book the Sheriff ought to return in Issues so much of Rent as the Defendant receives the day of the Writ purchased, untill the Day of the Return of it, 27 H. 8. f. 3.

Where the Sheriff returns too small Issues upon a *Distingas*, one may aver that they are too small; but some seem, that if he return too small upon a *Distingas Juratores*, it is out of the Statute, 10 H. 7. f. 11. Debt, the Sheriff returns upon the *Distingas* 20 d. upon the Defendant, and averment was, That the Sheriff might have returned mean, between the Writ delivered, and the return of that 100s. and the Writ was awarded to the Justices of Assize to inquire of that, 20 H. 6. f. 26.

Where the Sheriff returns one out-lawed, he cannot aver that he was called but three or four times. But in appeal he may have the averment, 10 H. 7. f. 22.

In Re-diffesin he cannot aver that the Sheriff did not go to the place, for he is Judge; and also one Out-lawed cannot aver that he was the fifth time called, 10 H. 7. f. 28.

Trespals

Trespas upon [Pone] goods were returned, attached, and when the Defendant appeared, he had a Writ to the Sheriff to deliver to him again his Goods: And the Sheriff returns, that he hath re-delivered, the Defendant cannot aver the contrary; the same Law of a return of a Seisin in Dower, one cannot have an averment to the contrary; for the Sheriff is Officer, to whom credit shall be given; which cannot have averment to the contrary. But where one is without remedy, and to be disinherited, it is otherwise, as if the Sheriff in a *Precipe* against one, return that he is dead, the Defendant may aver that he is alive, and may say not attached, by fifteen dayes, which is no direct averment: But upon an *Habere facias seisinam*, where the Sheriff returns, *Habere feci seisinam*, he cannot aver the contrary, 3 Ed. 4. f. 20.

One cannot have direct averment against return of the Sheriff in the same action, but in another he may. As in Debt against a Bailiff of a Franchise, for an escape of one Return by the Sheriff that he hath taken him by a warrant to him directed, upon a *Capias ad satisfaciendum*, he may now in this Action of Debt aver, that no such warrant was to him directed. And in Assise not attached by fifteen dayes, he may aver. And in a *Precipe* that he was not summoned according to the Law, is a good averment in the same Action, but not, not attached, or not summoned, 5 E. 4. f. 1.

A Writ of Deceit is returned by the Sheriff, and the Defendant avers, That the summoners now returned were not the summoners in *Precipe*, and he cannot aver that averment against the Return of the Sheriff, 5 E. 4. f. 7. & 33 H. 6 f. 11. *Markham accordingly.*

The Sheriff returns, *Mandavi ballivo libertatis de N. qui sic responderet*, that at another time the Defendant was committed to the next Goal by Auditors, upon an Account for Arrerages, and that he being Bailiff of that Goal, carried him to Prison, and he came in upon a *Cepi Corpus*, and saith, that no such account, and shall have that Averment, notwithstanding the return of the Sheriff, 18 E. 4. f. 5.

One sues a *Libertate probanda*, to recover *Nativo habendo*, and the Sheriff returns, That no *Nativo habendo* was delivered unto him; and the other avers the contrary, 18 E. 4. f. 7.

Upon a *Vinire facias*, the Sheriff returned four and twenty Jurors, and upon the *Habeas Corpora*, he returned that 12. of them were dead, the Plaintiff shall have averment that they are alive, against the Return, 20 E. 4. f. 11.

The Plaintiff prays, that the Defendant in *Replegiare*, wage deliverance; The Defendant saith, That they dyed in an open pound, in default of the Plaintiff, and prayed a Writ to the Sheriff, *Si constare poterit*; and if the Sheriff return upon that Writ, that they are dead, yet he may aver the contrary, and have a *sicut alias*, 30 H. 6. 2.

Where the Sheriff returns, *Mandavi ballivo libertatis Archiepiscopi Ebor*, which returns summons, the Defendant cannot aver, that the Land is within the Franchise of *Richmond*, 34 H. 6. f. 3.

The Sheriff returns upon an Exigent, that four times called, and notwithstanding averment was taken, that he was Out-lawed, and this was certified by the Coroners, and for that the Sheriff was amerced to fifty Marks, 36 H. 6. f. 24.

Where the Sheriff upon a *Capias* returns (he is not found) one cannot have an averment against this Return, 2 H. 4. f. 15.

One may have an Averment in another Action again the Return of the Sheriff, as in Covenant, the Sheriff returns him warned; yet in Detinue he may aver the contrary, 11 H. 4. f. 17.

Where upon a *Corpus cum causa*, out of the common Bench, it is returned, that he is bound to the Peace, which is for the King, and notwithstanding that it be false, he cannot have an averment in this Writ to the contrary, 9 H. 6. f. 44.

One outlawed reverses it by Error, and he hath a Writ to restore his goods which he took; time of the Outlawry, directed to *John*, Bailiff of *Westminster*, and could not return that he is not Bailiff, but he ought to answer to the Goods, whether he had them or not, and how they are wasted in his possession, 6 H. 7. f. 9.

The Sheriff or Bailiff Errant, sworn and known, may arrest one without shewing to him a Warrant; contrary of a Servant of the Sheriff, or other Bailiff which is not sworn and known, 8 Ed. 4. f. 14.

Where

Where the Sheriff returns upon a *Fieri facias*, quod Clericus est beneficiatus, non habens laicum feodum, there shall go a Writ to the Bishop to Sequester his Benefice, 13 H. 4. f. the last. See 32 H. 6. f. 13. 2 Ed. 4. f. 1. & 21 H. 6. f. 20. Cl. k.

The Ordinary sues a Writ of Annuity against one, and the Ordinary himself returns, *Clericus est beneficiatus, non habens laicum feodum*. And held that a *Venire facias Clericum* shall go to the Metropolitan, for that the Plaintiff is Ordinary, 34 H. 6. f. 32.

Return, Mandavi ballivo libertatis Ducatus Lăcast, *Dutchy*, though that the Dutchy hath no capacity, it is good, for that, that there were ancient Presidents of it, 33 H. 6. f. 22.

Upon a *Capias*, the Sheriff returns, That the party is a *Church*, Verger in the Church at Salisbury, and dwells within the precinct of the Church, and being a Sanctuary, he returns for that, *Non est inventus*, and for that the Return is not good, for he may seise that Process in the Church, 6 H. 4. f. 3.

2 R. 3. C. the last. Prohibited upon pain of Imprisonment and Fine, that none Arrest any person of holy Church, when he is doing Divine Service.

Dower, the Demandant recovers by default after default, *Inquest*, and the Demandant saith, That h^r Husband dy'd seised, and prays h^r Damages, and a writ went out to the Sheriff to enquire of Damages, and the Sheriff returns, that the Jury found no Damages; and by Thorp, the Sheriff shall be amerced; but where he Returns a writ ill of himself, in this Case he hath returned by the Oath of twelve, by which he was not amerced, 44 E. 2. f. 8.

Debt against Executors, which plead fully administred, and found that they have Assets, and the Sheriff returns th^t *Fieri facias*, Mandavi ballivo libertatis de Ringston, qui mihi dedit responsum, quod execu^t prae^t non habent aliqua bona, the which is contrary to the Verdict, and adjudged th^t the Return was not good; for he cannot return a thing which is contrary to that which is found, 3 H. 7. f. 11. & 5 H. 7. f. 27. accordingly.

Where the Parties admit one such a Visne, though there be no such, the Sheriff cannot return that there is no such

such, but shall make the Pannel of the body of the County, 37 H. 6. f. 12.

Appeal, the Sheriff returns the Jury of the Visne of D. and yet the new Sheriff returns the Distress, that there is no such Visne, and may, 3 H. 6. f. 58.

False Returns.

Where the Father is condemned, and upon the Exigent upon a *Capias* to satisfy, the Sheriff returns, That he delivered up himself, and it is his Son that came; and this was so averred, and found the Son, and the Sheriff was amerced, 7 H. 4. f. 13.

Where the Sheriff makes false return, as if he return, I have taken the body upon a *Capias* to satisfy, and hath him not; he shall have his remedy by a Writ out of the Chancery, or upon his account in the Exchequer, and not here, 7 H. 4. f. 32.

If a Felon (in going to Execution) be rescued from the Sheriff, if that be presented before the Justices of Peace, it is Felony: Otherwise it is if that come in by return of the Sheriff, 6 H. 7. f. 12. & 1 H. 7. f. 6. the same.

Felony.

Fieri facias.

Upon a *Fieri facias*, the Sheriff returns, I have done Execution at the day within contained; and at the day hath not the money, and for that goes a *Scire facias* to the new Sheriff against him, [to know why he shall not have Execution, 9 E. 4. f. 53.

The Sheriff which broke the door of the house to make Execution upon *Fieri facias*, shall be punished, as Trespass lyes against him, but not for taking the goods, 18 Ed. 4. f. 4.

The Sheriff returns upon a *Fieri facias*, against Executors, that the Executors have sold all the goods of the Dead, before the Writ purchased, and have taken money, and others goods for the same goods; and for that he was amerced; for he ought to have made Execution of Goods amounting to the value, notwithstanding the Sale, 14 H. 4. f. 13.

The Sheriff returns upon a *Fieri facias* against Executors, quod nihil habent post adventum brevis, prout sibi aliquo modo constare poterit; and was amerced for he ought to return directly, quod nihil habet; but he may return, quod bona elongata sunt; and upon that, Execution shall be of their proper goods, and he cannot return, non est inventus, prout ei constare poterit. 9 H. 6. f. 57.

By *Hank*, if a *Fieri facias* go out, and the Sheriff levy the Money,

Money, and return no Writ, the party may sue *Sicut alias*, if he will, or he may have a Writ against the Sheriff, to have the Money here, inquire what Writ that is: but by *Thirn*, it is duty to receive by party; and the *Fieri facias* is, that those Monies you shall have here, and they shall be brought in, to the Court, in discharge of the Defendant, and the Sheriff is not Debtor by simply saying, for that is not upon record that he hath levied them, and so the Defendant is Debtor, and not the Sheriff; yet some say, if the Sheriff levy the money by *Fieri facias*, and payes them not to the party Plaintiff, he shall have an account against the Sheriff, 11 H. 1. f. 57. see 2 H. 7. f. 22. by King. Trespas lyes against the Sheriff for levying the sum, & not returning the Writ.

Till the *Fieri facias* be executed, the money shall not be intended paid, and this is not executed, till it be returned by the Sheriff, 20 H. 6. f. 25.

Scire facias to have execution of a Judgment, the Defendant saith, that before this time the Sheriff by *Fieri facias* did levy the sum, and though the Defendant did not say, that the Sheriff delivered the money to the Plaintiff, nor that the Writ was returned, this is adjudged a good bar, and for that the Plaintiff saith, that the Sheriff hath not levied it ready, &c. 21 H. 6. f. 5.

Upon a *Fieri facias*, the Sheriff returns, that he took Goods to the value of ten pounds, for which he found no Buyer, by which issued to the new Sheriff, a *Venitioni exponat*, which returned, that his Predecessor took no goods, therefore, &c. By which issued a Distress to the late Sheriff, that the Goods that were set to sale he should bring in, 34 H. 6. f. 39.

It is Error where he is Outlawed, and the exigent returned, ad com̄ tenē apud Ilchest. in com̄ Sont, for it ought to be ad com̄. Somers. tenē apud Ilch. and to recover at the *Hustings*, London, where there are two, and is not at which *Hustings*, it is not good, 6 H. 7. f. 15. See 11 H. 7. f. 10.

*Incertain,
and where
not.*

Where an Outlawry was returned, it shall not be amended, where it was returned at my County Court held at the Castle of Oxford, and saith not in what County, it is not good, 21 H. 7. f. 37.

Upon a *Capias* the Sheriff returns, cepi J. S. & J. D. and doth not say, (*infranonimatos*) and it seems good, and shall be intended, 12 H. 7. f. 18.

A Writ upon a Statute Staple issued, to take the body, and to extend the Lands and goods of him that was bound, and the Sheriff returned that, that he hath extended the Land, and returned nothing of the goods, and yet it is good for the Land, which is part of the thing which he ought to do, and not all, 16 H.7.f.16.

The Sheriff returns, *virtute precepti cepi corpus*, and that is good, without saying, *virtute brevis*, for the Sheriff may take one in the Hall at *Westminster*, by commandment of the Justices, without a Writ, 16 H.7.f.16.

Scire facias, the Sheriff returns, I W. S. vobis certifico, and it is not good, but it ought to be, vobis Justic. certifico. but where the Return is *Scire feci*, I. S. and doth not say, *infranomijn*, yet for that, that it is further, (prount *istud breve in se exigit & requirit, secundum formam brevis*,) that is a good Return, 1 H.6. f.7.

Premunire, the Sheriff returns, that the Defendant was warned, and for that, that it is not what day, it is not good, for he ought to be warned by two Months before the day of the Return by the Statute, and that doth not appear, and for that it is not good, 42 Ed.3.7. and 39 Ed.3.7.

Affise where the Writ was ill returned, and that uncertain, there shall issue a *Sicut alias*, 46 Ed.3.f.18.

One Outlawed, and *Proclam. feci* was returned, that he had rendred himself Prisoner to the Sheriff of *Lon'on*, where it should have been *Kent*. And the Outlawry was for that reversed by Error, 27 H.8.34.

Where the Sheriff returns *Nihil*, or non est inventus. prout ei constare poterit, he shall be amerced, for he ought to take notice, 9 H.6.57.

Where the Sheriff returns (*Mandavi ball' libertatis*) of D. and for that, that he hath not returned to what person, it is not good, 9 E.f.4.20. & 1 H.6.7 the same.

Upon a *Capias*, the Sheriff returns (*cepi corpus*) and that A. & B. rescued him, and for that, that it is not where it is not good, 10 E.4.17.

Scire facias to have Execution of an Annuity against a Parson, the Sheriff returns, q, non habet bona, notwithstanding that it was not, nec habuit die receptionis brevis, yet it seems it shall be intended, and for that it is good, 2 E. 4. 1.

Scire facias, against two several Tenants, the Sheriff returns (*Scire feci modo & ferma*, prout istud Breve in se exigit & requirit) and it is good, though it be not returned severally, *Scire feci*, 2 H. 4. 14. See, 33 H. 6. 31.

In a Writ to inquire of Waste, the Sheriff returns, *Quod cepit inquisitionem die Sabbati proximo*, and for that it is not what *Sabbati*, it is no good Return, 40 Ed. 3. 20.

Scire facias, to have execution of arrearages, or an annuity against *Lawrence Booth*, Keeper of our blessed *Mary Hallers*, in the University of *Cambridge*, and *Schollers*, and the Sheriff returns that *Scire feci Lawren. Booth*, and nothing of the *Schollers*, and for that the Return was not good: and so *Sicut alias*, 34 H. 6. 54.

Where a Writ goes to the Coroners, and one returns that he made a Precept to his Servant to arrest the Defendant, and that he at D. such a day made a rescue, this Return is not good; for it shall be made by both the Coroners, 39 H. 6. 42.

Upon Exigent the Sheriff returns, *Proclamari feci ad com. taleni tenē tali die*; and for that, that it is not what Year, it is not good, 27 H. 8. 34.

The Sheriff returns, He hath nothing, and it is not good, but he ought to return also, *Quod non habet ballivos, nec ballivum, nec est inventus*, 26 Book of Assises 33.

Attaine, The Writ you shall diligently inquire, Who were the Jurors of the first inquisition; and whether *M. B. Knight*, was one of the Petty Jury, and he returned their names, and *M. B.* was dead; and though he do not return *M. B. Knight*, it shall be intended the same, and a good Return, 34 Book of Assises 6.

The Sheriff upon a *Venire facias*, returns twelve names only upon the back of this Writ, and not in the Schedule, and it is good; but shall return twenty four, according to the Usage, 2 H. 6. fol 8.

The Sheriff returns upon a *Capias*, that a rescue was made at D, by the command of J. S, and for that, that he doth not return where the command was, it was not good; for the Return shall be as certain as known, 3 H. 7. 11.

Upon *Pluries*, to have a Corody, the Sheriff returns, That the Bishop of K. is Founder, and doth not return the name of that Bishop that founded it, and for that it is uncertain, 3 H. 7. 6.

Admea-

Admeasurement of Dower; the Sheriff returns, that the woman hath more then she should by 40 s. per ann. This is no good return, for he ought to return two parts by it self, and their values, and the third part by it self, and the value thereof, 44 Ed. 3. 11.

London;

The Sheriff of London upon a *Nativus habendo*, returns, That if a Villain remain in London by a year and a day, that he shall not be drawn out, and that is a good return; and it is said, That Return, that Attaine doth not lie in London, it is a good Return. Inquire, 7 H. 6. 24.

In London every of the Sheriffs may arrest a man, and pet the Return shall be made in the name of both the Sheriffs, 19 H. 6. fol. 43.

Where the Sheriff returns, (*Minu' ball' liberf*) and doth not return, for that, that he hath nothing *infra ballivum meum*, and was amerced, 47 Ed. 3. 2.

Mandavi
Ballivo.

Where the Sheriff returns, *Mandavi ballivo libertatis*, where that Liberty is not enrolled in the Exchequer, it is taken as a dis-inheriting of the King, 2 H. 4. 5. and 11 Ed. 4. 6.

The Sheriff returns, *Mandavi ballivo libertatē, qui mihi responder quod cepit corp⁹*, and hath not the body there; it is doubted, whether the Bailiff shall be amerced, or the Sheriff, 2 H. 4. 16. Inquire, see 11 H. 4. fol. 41. that the Bayliff shall be amerced, and not the Sheriff, 5 E. 1. 46. the same.

Where the Sheriff returns, *Mandavi ball' liberf, qui mihi responder, quod cepit corpus*, and notwithstanding hath not the Body, the Sheriff was amerced, and a *Distingas* awarded, *ad distring. ballivum ad habendum corpus &c.* 47 Ed. 3. 25. But 14 Ed. 4. 1. There shall go out a *Distingas ballivum*, *ad habend' corpus*, and 36 H. 6. 1. the same.

The Sheriff returns, *Minu' ball' libertatis qui mihi responder, and returns but nine of the Panel*, the Sheriff shall be amerced, not the Bayliff; for the return in Law is not good, 8 H. 6. 56.

The Sheriff upon a *Grand Cape*, returns, *Mandavi ballivo libertatis, qui mihi responder, quod cepit the Land into the Kings hands*, and doth not return that he hath summoned the Tenant; and held, that the Return in Law is not good, and for that the Sheriff shall be amerced, 4 H. 6. 25.

If the Sheriff upon a *Capias* makes a command to the Bayliff to arrest one, and he takes him, and the Sheriff doth not return the Writ, by *Fremick and Brian*, the Bayliff shall not be punished, but the Sheriff, 10 H. 7. 17.

False imprisonment against a Bayliff, which saith, that a *Capias* came to the Sheriff, and the Sheriff commanded him being a travelling Bayliff, that he should take the body of the Plaintiff, which he did so; the Plaintiff saith, that the Writ was not returned. And by *King'smill*, though the Bayliff were fined, it shall be accounted all wrong in him, for that, that the Writ is not returned, 20 H. 7. 13.

Contrary by *Rede*, and *Littleton* saith, That Trespass doth not lye against a Servant in this case, 18 Ed. 4. 10.

If the Sheriff himself justifie in Trespass the arrest of one by *Capias* to him directed, he ought to shew that he hath returned the Writ, for it is conditional, Ita quod Habeas corpus hic &c. 3 H. 7. 3.

Wh. re the Sheriff serves a *Fieri facias*, and levies the sum, and doth not return the Writ, the party may have an action of trespass against him for that levy, 21 H. 7. 22. By *King'smill*.

The same Law is, If a Bailiff by the command of the Sheriff arrest a man, and do not bring him to the Sheriff, false imprisonment lies against him.

Capias issued to the Sheriff where there is no Originall, and he arrests the party, and returns the Writ; Trespass doth not lye against him.

If the Servant of the Sheriff arrest one by a Precept made out of a *Capias*, and return his Precept to the Sheriff, and the Sheriff do not return his *Capias*; it seems, that false imprisonment lies against the Servant.

But where the Bayliff of a Liberty arrests one by a Precept out of a *Capias*, made to him by the Sheriff, and the Sheriff do not return the *Capias*; it seems, that false imprisonment lies against the Sheriff, and not against the Bayliff.

If the Sheriff make a precept to his Servant, or to another to be a Bayliff (if he be not a Bayliff of the Franchise, which is not his Servant) and they take the party, and the Sheriff doth not return the Writ; the Bayliff is a Trespasser, unless he be Bayliff of the Franchise, though the

the Bayliff return his precept to the Sheriff served, 8 Ed. 4. 18. and 13 H. 7. 2. the same, see 18 E. 4. 9. and 28 Book of Assize 47.

Debt against an Executor, which pleads nothing in his hands, and found asserts, and the Sheriff returns upon a *Fieri facias*; Mandavi ballivo libertatis &c. qui mihi responder, quod ad nulla bona testatoris, and this Return is not good; for it is contrary to the Verdict and Tryall, and yet the Sheriff shall be amerced, and not the Bayliff, for that that the Return in Law is not good, and the Sheriff ought to have knowledge of the Law, 5 H. 7. 27.

But for false Return, the Bayliff shall be amerced, 3 H. 7. 11. the same.

Where the Sheriff returns, Mandavi ballivo libertatis, qui mihi nullum dedit responsum, there shall go out a *Non omittas*.

The Sheriff returns, Mandavi ball' libertatis, and for that, he doth not return (for that) ad infra ballivam meam, he was amerced, 37 Ed. 3. 2.

The Sheriff returns, Mandavi ballivo libertatis, and it is not to what person the Liberty is, and for that, by Pigot, it is not good, 9 Ed. 4. 20. contrary by Danby. See 1 H. 6. 7.

The Sheriff Returns, Mandavi ballivo libertatis franc' Comis Salopix; and for that, that it is not (for that the Lands were within the Liberty), it was challenged, and the Return is not good, for that, that it is not of what Liberty, if he have more; and for that he ought to Return, Mandavi ball' liber' franc' Comi Salopix, libertat' suæ de Scarf-dale, vel libertat' suæ de Alto Pecco &c. qui habet plenum res, & execuc' omnium brevium in eadem libertat', cui exec' istius brevis totalit' pertinet faciend' qui quidem ballivus sic mihi responder &c. 1 H. 6. 7. 9 H. 6. 35.

Upon a Writ to inquire of Waste, the Sheriff returns; I have commanded the Bayliff of the Liberty, which hath given me no answer; and the Sheriff was amerced, for he ought to enter, and go to the place wasted, for that is the Statute, and for that the Franchise shall not hold place, 11 H. 4. 80.

If the Sheriff enter into any Liberty, and execute Process there without a (*non omittas*.) the Lord of the Liberty shall have a Writ of Trespass upon the Case against him, Fitzh. 95. B. The

The Sheriff returns upon the Exigent, That the Defendant is dead, and cannot, by *Prisot*; and also upon a *Capias* he cannot return that, 32 H.6.33.

The Sheriff returns upon a *Scire facias* against an Abbot, that he is disposed, by which he cannot warn him, and it is good; for that it is a death, 1 H.6.2. and 2 H. 6. 5. the same.

The Sheriff returns upon an Exigent, that the Defendant is dead, and it is no good Return; for he ought but to demand him, and if he appear, to take him, 10 H. 4 5.

Upon *Pluries Repleg.* the Sheriff returns, that the Beasts are dead; and this is a good Return, and he need not return, that the Beasts are driven away, 32 H 6.32.

In *Attaint*, the Sheriff cannot return, that the Defendant is dead; for there are not any words in the Writ to warn the Defendant, 18 H.8.5.

Upon a *Habeas Corpus jurat.* the Sheriff returns, That four are dead, and may, and upon a *Distingas*; therefore he returns, that other two are dead, and may, 10 E. 4. 11.

Upon an *Habere facias Scissum*, and upon the Grand Cape; and upon *habere facias visum*, a return *Quod nullus venit ex parte querentis &c.* is a good return, 13 H.4.9.

Upon a Writ of View, it is a good Return, *Quod nullus venit ex parte perentis ad demonstrandum sibi terram*, for the Sheriff is not bound to know the Land, 14 H.6. 20. None comes for the Plaintiff.

The Statute of York, chap. 5. saith, That the Sheriff ought to put his proper name to every Return, 8 H. 6. fol.76. 36 H.6. f.1. and 9 E.4. f. 19.

Where one is Out-lawed, he may reverse that by Error; for that in Return of the *Alias Capias*, the name of the Sheriff was omitted, 26 H.8.4. Names of the Sheriff.

Trespas against an Abbot and his Monks, the Sheriff returns Pledges for the Abbot, and that his Monks have nothing, and that is a good Return; and yet of a Husband and Wife, Pledges shall serve both; and he need not return the Wife, *Nilil*, 48 E.3.f.26. Pledges.

Assise, the Sheriff returns, *Non invenit mihi pleg.* and the Writ was delivered to the Sheriff again, and the Plaintiff forthwith found Pledges, 2 H.4.22. Assise

Assise against a Husband and the Wife, the Wife shall be attached by Goods of the Husband, for that she is to be brought in by her Husband : 7 H. 6. 10.

Upon a *habeas corpora* against a Juror, the Sheriff cannot return that he hath served part, and the Bayliff of the Liberty the other part ; but upon a *Capias* against divers, the Sheriff may return *Cepi corpus* of one, Et Mandavi ballivo libertatis of another, and it is a good return, 31 H. 6. 13.

Part served
by the Sher-
riff.

The Sheriff upon a *habeas corpus*, with a *Decem tales*, returns, that he hath served the *habeas corpus*, and to the *decem tales*, Mandavi ballivo libertati, which hath served the residue ; it is not good Return, 8 H. 4. 16.

Distringas Juratores, The Sheriff cannot return, that he hath distrained some, and the Bayliff of the Liberty hath served the rest, 19 H. 6. f. 48.

Upon a *Distringas*, with Proclamation upon an Ejection of Ward, the Sheriff returns, Mandavi ballivo libertati, which answers, &c. Issues forty pence, and that he himself hath made Proclamation ; and for that, it seems, that the Sheriff ought to make the Proclamation in the County, and ought to serve the residue, 2 H. 4. f. 1.

In a *Præcipe*, the Sheriff returns, Mandavi ballivo libertati, qui mihi sic responderet, &c. a good Return : And also that the Bayliff takes the Pledges, and for that, that he took the Pledges where the Sheriff ought ; the Sheriff was amerced, and sicut alias was awarded, 14 H. 6. fol. 3.

Assise, the Sheriff returns, that he hath taken Pledges, and that the Bayliff of the Liberty hath served the residue ; and though part be served by the Sheriff, and part by the Bayliff, it is good ; for if the Plaintiff do not find to the Sheriff Pledges, he shall make no Precept to the Bayliff, 21 H. 7. f. 14.

The Sheriff by the statute of *Westminster*, the 2. chap. 39. may take *Posse comitatus*, to execute Process, and also agreed by this Book, that the Bayliff may so do, for he is in the place of the Sheriff, 3 H. 7. f. 1.

Posse comi-
tatus.

Quare
Impedit.

Upon a *seire facias* against a Chaplain, upon a Recovery in a *Quare Impedit*, the Sheriff ought to return, Quod clericus est beneficiatus non habens laicum feodum, for that shall not be returned ; but upon a *Distringas*, or *Capias*, in
D:bt

Debt or Trespafs; that is a good Return, and there shall go *Venire facias clericum*, but here he may be warned by his person, 32 H.6. f.13.

If the Sheriff return, that one at D. made a Rescue, it is good without addition of the Party in the Return, and yet Process of Out-lawry lieth upon that; and where the Sheriff returns the rescue to be made at D, he is estopt to plead to that Return over D; and neither D, and none without addition, for he is estopt by the Return. *Rescous*

Where the Sheriff upon a *Capias* returns, I have taken the Body, and that J. S. and J. D. made a Rescue, and for that, that in the Return, there is not of what place, it is good, 10 Ed.4. f.17. and 3 H.7. f.11. *the same*.

Where Tenant for life prays in aid of him in Reversion; and in *Scire facias* against him, the Sheriff may return, that he is warned in the Land in Reversion, which is in the Land demanded, 45 Ed.3. f.26. *Scire fac*

One may be warned in *Scire facias* by his person, his Land, or Goods, as it seems by 32 H.6. f.13.

Scire facias, to warn two upon a Writ of Detinue, the Sheriff returns one warned, and that the other (hath nothing), and held, that the Sheriff shall be amerced; for though that he hath nothing, he ought to have warned him by words, that is his Person; but for that, that the Returns was read, and was, *Nihil habet in Comitatu meo, nec est inventus in eodem*, it was good; for he cannot warn his Person, 1 H.5. f.13.

The Sheriff return, upon a *Scire facias* against a Parson, to have Execution of Arrearages of Annuity, that the Parson hath resigned, & *quod non habet bona*; and it is good, and may take notice of the resignation, 2 Ed.4. f.1.

Upon a Writ of Error issued *Scire fac. heredi & reit tenent separatim ad essend' si eis videbitur expedire*; and it was against Husband and his Wife, and another person, and the Sheriff returned that *scire feci, L. de B, and Alice his Wife, Tenants of so much, and R. de H, Tenant of so much severally, and the Return good, though the Husband and the Wife cannot be severed, 3 H.7. fol. the last.*

The Sheriff returns upon a *Scire facias*, against an Abbot that he is deposed, that he cannot warn him; and this is good, for he is dead, 1 H.6. f.2. The

The Sheriff returns *scire feci*, by A. & B, without saying, Good and lawfull men; and the party appears, and good, 8 H. 6. f. 76.

Summons in
the Land
demanded.

Attaint was returned by the Sheriff *Nihil*, and the return is not good, and so *scut alias*, and shall be summoned in the Land demanded, 42 Ed. 3. f. 19.

Mortdincester by two, and one makes default, by which issueth a Summons to prosecute together; the Sheriff upon this Returns *Nihil*, and award, that they shall be summoned in the Land demanded, 44 Ed. 3. f. 27.

Scire facias out of a Fine to execute that, and two make default, and in a Summons ad sequend' simul, the Sheriff upon that returns *Nihil*, and shall be amerced; for they shall be summoned in the Land in demand, 10 H. 6. f. 12.

The same Law is; where one hath aid of him in Reversion, and in a summons to aid, he shall be summoned in *terra petita*.

A Writ of Covenant to levy a Fine, the Sheriff returns *Nihil*, and for that shall be amerced; for he ought to have summoned him in the Lands demand, 10 H. 6. 13.

Where aid was granted, and the Sheriff returns, that the Prayee hath nothing whereby he may be summoned, by which *Sicut alias* was awarded in the Land in demand, 24 E. 3. 37.

Debt against John Eurlton, Parson of D, the Sheriff returns at the *Pluries Distingas*, that he hath resigned, and it is a good Return, 2 H. 7. 10.

Spiritual.

Scire facias, Against an Abbot, and the Sheriff returns He is deposed, and good Return: But in *Scire facias*, against a Husband and his Wife, the Sheriff cannot return that they are divorced, for that is spiritual, wherof he hath no notice, 1 H. 6. 2. and 2 H. 6. 5. the same.

Scire facias, against the Parson of D, to have Execution of arrearages of an annuity, though the Sheriff return that he hath resigned, and take notice of that, it is a good Return, 2 E. 4. 1.

The Sheriff returns upon a *Capias*, *Tardè*, and was amerced, 2 H. 4. 8.

Right of ward at the *Distingas*, with Proclamation, the Sheriffs returns *Exitus*, and that he cannot proclaim that, for that it came too late, and there shall go an *Alia* to proclaim

proclaim that only, and shall not return Issues, 3 H. 4. 6.

In *Capias* of appeal of Death, the Sheriff returns, that that Writ came so late, that &c. and the return awarded good, 8 H. 4. 1. 21.

In Assise when the Writ is returned *Tarde*, the Clerks do not make *Sicut alias*, but enter the Writ, and send that *Tarde* again to the Sheriff to be served, 9 Ed. 4. 26.

Forging of Deeds, *Distingas* with *Decem tales*, of that was awarded against the Jury, and the principal Jury was returned *Tarde* upon the *Distingas*, and the *Tales* served; and the Return was awarded good; for where the Issues are to be returned, the Sheriff ought to have time to know their Land, but upon a *Capias* returned *Tarde*, it is said to be ill. But inquire, because it is used, 21 H. 6. 51.

The Sheriff returns Writ delivered by Bill, according to the Statute of *West. 2. cap. 39. Tarde*, and for that; that the Sheriff refuseth to put his Seal, others put their seals according to the Statute; and the Plaintiff hath a Writ to the Justices of Assise to inquire of Damages; 26 Aff. 58.

Capias to have Execution against an Abbot, or against a Bishop, if it be returned, that they have nothing in that County, there shall go out *Elegit* upon the *testatum*, in another County, 26 H. 8. 18. & 26 H. 8. 17.

Where one hath recovered in a *Quare Impedit*, and hath a Writ to the Bishop, which refuseth his Clerk, so that he hath a *Quare non admittit*, and Process continues to the distress against the Bishop, and the Sheriff returns, That he hath nothing, there goes *Distingas* to the Sheriff of *London* upon the *Testatum*, that he hath no Land there, 3 H. 4. 6.

Testatum

Trespas against a Prior, the Sheriff returns that he hath nothing, and how he hath no Land there, he shall have Process into another County upon a *Testatum*; for a Prior was a name of Dignity, and for that shall have Process in another County upon *Testatum*, 7 H. 4. 1.

Where the Sheriff returns *Nihil*, *Capias* doth not lye against a Lady, Peer of the Realm, Earl or Baron, but there shall go a *Testatum* in another County, but where they do wrong, as if they Essoin, Distress, and returns that by the Sheriff, the *Capias* lies for the wrong, 11 H. 4. 15.

If the Sheriff arrest any, and rescue is made by Barons
P. Earl;

Earl, or Duke; if the Sheriff return the rescue, *Capias* lies, 1 H. 3. f. ult.

Waste.

Waste was made in Reddale, and upon a Writ to inquire of Waste, the Sheriff returns, *quod cepi inquisitionem apud Reddel*, and for that it is not at the place wasted, it is no good return, 48 Ed. 3. 20. & 27 H. 8. 16. the same.

Waste in A. B. C. and D. it is said that a Writ to inquire of Waste shall be returned, *quod accessi ad tenementa infros. & inquisitio capta apud*, it shall serve for all, 34 H. 6. 49.

A. returns upon a *Re-disseisin*, or upon a Writ to inquire of Waste, (that I came to the Town) is not good, but to the place, 11 H. 4. 6.

Upon a Writ to inquire of Waste, for that, that the Sheriff returns, (*Mandavi Ballivo libertatis, qui nullum dedit mihi responsum*) he was amerced, for he ought to go to the place wasted, 11 H. 4. 80.

Visne.

Appeal, the Sheriff returns a Jury of the Visne of D. and the new Sheriff returns no such Visne, and may, 3 H. 6. fol. last.

Venire facias.

Venire facias was returned by the Sheriff, and afterwards the Sheriff was discharged, and a new Sheriff made, and at the *Disfringas* he returned (*Nihil*) upon a Juror, and adjudged that he shall be amerced, but he may return that the Lands are recovered against the Juror, or that the Juror was Tenant for life of J. S. which is dead, or other special matter, and so (*Nihil*) 19 H. 6. 38.

Where the parties admit one such (Visne) where there is no such, the Sheriff cannot return, that there is no such (Visne) but shall make the Pannel of the body of the County, 37 H. 6. 12.

A (*Venire facias*) with the pannel was returned, and none found upon the Roll, but (*sicut alias*) awarded and returned, and upon that (*habeas Corpora*) and *Disfringas*, and the Jury found for the Plaintiff, and it is shewed in arrest of Judgment that there was another (*Venire facias*) with a pannel, and adjudged that it shall not be intended to be there lawfully, but shall be taken off of the File, for that, that in the Roll, the Entry was, *ad quem diem Vicecomes non misit breve*, and upon that it was awarded the *sicut aliis*, 20 H. 6. 17.

Though the *Venire facias*, is *Venire facias*, twelve free and lawful men, yet if the Sheriff return twelve only, if he do

do not amend that, he shall be amerced; for the Justices will not alter the ancient form, for the mischief which may come; for if twelve only be returned, he shall not have a Jury without *Tales*, 2 H. 7. 8.

The Sheriff returns a pannel upon *Venire facias*, and cometh a Bailiff of the Fee, and shews an Indenture by which he hath returned certain Names to the Sheriff, and that the Sheriff hath returned other Names in blemishing his return, and prayeth that the Jury be not taken, and it was not allowed, 30 Book of Assises 5.

Assise (*Venire facias*) was directed to the Coroners, and the pannel was returned by two Coroners, where there are four, and therefore the *Venire facias* was sent back again, and afterward was returned by all four, 31 Assise 20.

Venire facias issued to the Sheriff, which returneth, *Mandavi in Ballivo libertatis*, that to me he should send a pannel and this is returned, and after goes *Tales* to the Sheriff, and he returns the *Tales*, alledging that they were more sufficient within the Franchise, and good return upon this special matter, 38 Ed. 3. 29.

Debt against the Sheriff, and he returneth that he himself is Sheriff, and that he cannot summon himself, 18 Ed. 3. & H. 6. 77. See 9 H. 6. f. 10. Sheriff.

Precipe, (*Venire facias*) issued to the Sheriff, and he was outed of his Office one moneth before the return of it, and he sent the (*Venire facias*) which was served to the new Sheriff, and he returned another *Venire facias*, and returned that Writ late, and it seemeth that the writ which was served shall be, 28 Ed. 3. 99.

One was outlawed, and a *Proclamavi feci* returned, that he should render himself to the Sheriff of London, where it should be *Kent*, and the outlawry was reversed by error, and for that, that it is in another Term, it seemeth that the Sheriff shall not be amerced, 27 H. 8. 34.

Debt was brought by J. S. being Sheriff, and serves the Writ, and it is good, and may serve that till a *Ventre facias* 14 H. 6. 1.

The Sheriff may bring a Writ of Debt in the County where he is Sheriff, and may serve it, and return it, and may find Pledges to prosecute in the Chancery, 14 H. 6. 19.

Trespas against the Sheriff and two others, and process

was awarded to the Coroners, and the Sheriff was found Not-guilty, and the Plaintiff prayed a *Fieri facias* to the Sheriff, and could not have it, for that the Process before was to the Coroners, 2 H. 6. 12.

Debt upon a *Capias*, the Sheriff returns *languidus est in prisoa*, and yet the Defendant was received to appear, for he hath day by *Rolls*, and the Plaintiff was demanded, and did not come, and was nonsuited, 3 H. 6. 3.

If the Sheriff return in one Pannel, *Johannis D.* where it should be *Johannes D.* yet that is good, for false Latine is not material in a Return, 2 H. 4. 8.

If the Sheriff return upon a *Capias*, *cepi corpus*, and hath not the body, he shall be amerced, 7 H. 4. 11.

The Defendant cannot say that the Sheriff is Confin to the Plain iff, and pray (*Venire facias*) to the Coroners; for if it be so, he may have his challenge, and quash the Jury, but the Plaintiff may pray that, 3 H. 7. 2. & 5.

Exigent which was delivered of Record, was imbezelled, and the Copy of that returned by the Sheriff, and he was amerced for returning of the Copy to 30 l. and for imbezelling that 20 l. 3 s. 4. 5.

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